

# BARS WOMAN LAWYER

## The Court Of Appeals Decides Against Miss Maddox.

### SHE WILL GO TO LEGISLATURE

## Judge McSherry Gallantly Disclaims Intention To Discourage Ladies From A Laudable Ambition.

The Court of Appeals at Annapolis decided yesterday that a woman cannot practice law in Maryland courts. The petition of Miss Etta H. Maddox, of Baltimore city, for permission to take the examination for admission to the bar was rejected. Judge McSherry delivered the opinion of the court. In her petition Miss Maddox sets forth that she is a female over the age of 21 years and a graduate of one of the Baltimore law schools. She also filed an able brief argument in support of her contention.

Judge McSherry in his opinion reviewed the whole subject. The law of Maryland of 1838 provided, he said, that all male citizens over the age of 21 should be admitted to practice law, and that the re-enactment of this act in 1898 did not in any way enlarge it in this regard, but merely prescribed a different way for admission. The right to practice law is in no sense an inherent right. No woman was ever admitted to practice law in England or in the principal courts of this country. In conclusion the Court says:

"We are not to be understood, as disparaging the laudable ambition of females to become lawyers. It is for the General Assembly to declare what class of persons shall be admitted to the bar. We have no power to enact legislation. The Court can only interpret what the Legislature adopts. If we should say that females are entitled to be admitted to the bar when the Legislature has not said so we would exceed our authority and usurp the functions of a different and independent department of the State government. If the General Assembly thinks at its approaching session that females ought to be admitted to the bar it can so declare. Until then we have no power to admit the applicant, and her request to be allowed to stand for examination must be denied."

### Miss Maddox's Statement.

"I am surprised, but not disappointed," Miss Maddox said last night after learning of the decision. Miss Maddox was graduated in law last spring, and in October applied to the court for permission to take the examination for admission to the bar. Realizing that her case would be made a test one, Miss Maddox petitioned the court for the privilege of presenting a brief in support of her claim as a woman to take the examination under the law. The petition was granted. Miss Maddox prepared her own argument and presented it to the court.

Judge McSherry decided that there is at present no law authorizing such examination, but that it is within the province of the Legislature to pass an act authorizing women to take the examination and be admitted to the bar of Maryland. Miss Maddox will petition the next Legislature to pass such an act. She has no intention, she said, of letting the matter rest where it is at present.

"I fail to see," she said, speaking of the decision, "how the Court could arrive at such a conclusion. The law of our State does not say that a woman shall not be admitted to the bar. The Act of 1898 omits the term 'male citizen'—which appeared in earlier acts concerning applications for admission to the bar—and substitutes for it 'petitioner' or 'applicant,' referring later in the act to the applicant by the use of the masculine pronoun. The decision seems to have been determined by the presence of this pronoun.

## Differs With The Judge.

"According to the rules of construction the sex of the applicant has nothing to do with the granting of the application. The rule that the masculine pronoun shall include a female whenever it is not absurd or unreasonable is a rule that was settled at a very early day.

"As the State law stands now any attorney who has been practicing in another State for five years can come here and be admitted to the bar without examination. And attorneys practicing in other States have also the privilege, according to the law of Maryland, of coming her, if any special case demands it, and of trying the case in our courts. If these laws are observed I don't see how any attorney, woman or man, who is practicing in another State and who comes here asking to be admitted to the bar could be refused. Yet the Court refuses me—a native of the State and a taxpayer—the privilege of taking the examination.

## Where "He" Includes "Her."

"The rule concerning the construing of masculine pronouns as including feminine in all cases where such construction is not absurd or unreasonable applies to penal laws. Why doesn't it apply to all others? If a woman may come under the designation of 'he' in a statute defining a felony and fixing its punishment it is hard to conceive that she cannot under the same designation be brought within the terms of a statute defining civil rights. If a statute require that the owner of a city lot should remove the snow from 'his' sidewalk it will be held to extend to men, women and children."

## In Other States.

Among the States that have admitted women to the bar without the passage of special statutes Miss Maddox named Iowa, Missouri, Michigan, North Carolina, Maine, Indiana, Kansas, Connecticut, Nebraska, Colorado, Washington, Pennsylvania, New Hampshire, the District of Columbia, Montana, Utah and Ohio. In Indiana, she said, the statute reads "male voter;" in Pennsylvania, "he," "his" and "him;" in Connecticut, "such persons as are qualified;" in Kansas, "any person being a citizen." In Michigan "citizen" is used.

Special statutes were passed to admit women in the following States: Illinois, California, Mississippi, Massachusetts, Oregon, Wisconsin, New York and Minnesota. In Colorado, Miss Maddox said, the woman law student graduates as a "bachelor of law;" the certificate to practice before the Supreme Court of Colorado reads "him," "his" and "esquire;" no feminine pronoun is used in the document.

## Offices And Professions.

"Certificates received by women," Miss Maddox continued, "from the United States District and Circuit Courts for the District of Columbia solemnly recite that the oath of office was duly administered to 'him' in open court.

"Under the act of Congress of 1825 conferring upon the Postmaster-General the power of appointing postmasters women have been appointed in all parts of the country as 'postmasters.' The same is true of pension agents.

"The other learned professions are open in this State to all sexes. If nature has endowed women with minds, if our colleges have given her education, if her energy and diligence have led her to a knowledge of the law, and if her ambition directs her to adopt the profession of law, shall it be said that the profession of the law is of all professions and vocations in Maryland the only one from which she shall be excluded, and that there is a sex limit to justice and equity?

"Maryland was the first of the colonies to admit a woman to the bar. Margaret Brent on January 3, 1648, was by order of the court admitted to the bar as the attorney of Lord Baltimore. I hope Maryland will not be the last of the States to give women the right to practice law in her courts."