

Michigan's First Woman Lawyer

By Margaret A. Leary



Sarah Killgore Wertman

Sarah Killgore Wertman was the first woman in the country to both graduate from law school and be admitted to the bar. Thus, she was Michigan's first woman lawyer in two senses: She was the first woman to graduate from the University of Michigan Law School, and the first woman admitted to the Michigan bar. Others preceded her in entering law school, graduating from law school, or being admitted to the bar, but she was the first to accomplish all three. Her story illustrates much about the early days of women in legal education and the practice of law, a history in which the University of Michigan Law School was a leader.

In the late 19th Century there was neither American Bar Association (ABA) accreditation nor Association of American Law Schools (AALS) membership to measure the quality of law schools. And the concept of a "university" which might contain a "law department" or "law school" had not yet matured either. Many law schools arose and disappeared, some merged with each other or with larger institutions. The importance of attending law school at all was much less then, because prospective lawyers could also study law in a law office, and then pass an exam to be admitted to practice.

The first woman in the country to be admitted to practice law was Arabelle Mansfield, in Iowa, in 1869. She did not, however, graduate from law school.

Sarah Killgore Wertman was not

the first woman to be admitted to law school, although she came very close. That honor goes to Lemma Barkaloo, who came from Brooklyn, New York, to the Law Department of Washington University in St. Louis in the fall of 1869, after she was refused admission to Columbia University Law School. Although she did not graduate, she was admitted to the bar of the Supreme Court of Missouri in March, 1870, and became the first woman to try a case in court. Sadly, she died of typhoid fever that September. Also in 1869, and also at Washington University, Phebe W. Couzins began law school, graduated in May, 1871, was immediately admitted to the bar, but never practiced law.

Sarah was also not the first woman to be graduated from law school. Ada H. Kepley, of Effingham, Illinois, was graduated from the Law Department of the old Chicago University (a different legal entity from the present University of Chicago) in June 1870. However, Ms. Kepley was not admitted to the bar because of her sex, following Illinois and United States Supreme Court decisions upholding an Illinois statute. Those cases were brought by Myra Bradwell first to the Illinois Supreme Court in 1869, and on appeal to the U.S. Supreme Court in 1873, both denying her application for a license to practice law because "That God designed the sexes to occupy different spheres of action, and that it belonged to men to make, apply, and execute the laws, was regarded as an almost axiomatic truth." And "In view of these facts, we are certainly warranted in saying that when the legislature gave to this court the power of granting licenses to practice law, it was with not the slightest expectation that this privilege

would be extended to women." So, Ada Kepley was unable to gain admission to the practice of law in Illinois.

Ada Kepley is now considered a graduate of Northwestern University's School of Law, although the institution which granted her degree was the Law Department of the old Chicago University. In 1873, that Law Department became a joint operation with Northwestern University. In 1886, when the old Chicago University failed and ceased to exist, Northwestern assumed sole responsibility for the Law School and made it the Northwestern University School of Law.

Sarah Killgore, like Ada Kepley, began law school at the law department of the old Chicago University in 1869-70. She then entered the law department at the University of Michigan and graduated in March, 1871, more than a month before Phebe Couzins was graduated from Washington University. Sarah was admitted to the bar in Michigan shortly thereafter, before Phebe Couzins was admitted.

Sarah's reason for going to law school, which she began at age 26, appears to be dissatisfaction with her first career, teaching. She was born in Jefferson, Clinton County, Indiana, March 1, 1843. Her parents, David and Elizabeth Killgore, provided her a liberal education and a strong Christian upbringing which stayed with her. Her father, a prominent attorney, encouraged her to study law. She was graduated from Ladoga Seminary in 1862 and taught school for several years before deciding to go to law school.

After law school, she returned to Indiana, to recuperate from the ill effect on her health of attending law school.

She married Jackson S. Wertman, an attorney in Indianapolis, on June 16, 1875. However, she could not practice law there because the Indiana statute required for admission to the bar "male citizens of good moral character," so she did office work, specializing in real estate law while her husband handled public court appearances. The Wertmans moved to Ashland, Ohio, in November 1878, and Sarah bore two children, Shields K. and Helen M., who lived to adulthood, and one, Clay, who died in infancy. Sarah stayed home to raise her children, but when her son and daughter were in their teens she again returned to the law. In September, 1893, she passed the required exam and was admitted to the bar in Ohio, returning to her husband's law office to practice real estate law and the business of abstracting.

The Wertmans followed their children to Seattle, and had a home there in 1905. Sarah chose not to continue to practice law with her husband. She lived, at the end of her life, with her son in Seattle. She maintained a strong interest in University of Michigan alumni affairs and kept a heavy schedule of religious reading. She died in 1935.

Sarah was a member of the Equity Club, a community of women lawyers based at the University of Michigan Law School. The Equity Club letters from 1887-1890 are the subject of *Women Lawyers and the Origins of Professional Identity in America*, edited by Virginia G. Drachman. The club's correspondence reveals that the women who attended Michigan in the 1870s and 1880s were smoothly integrated into all areas of the Law School, welcomed by their male classmates, and graciously received by faculty as well.

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Nevertheless, they were a very small group and felt isolated within the large community of male law students, an isolation that brought them closer together and inspired formation of the Equity Club by six women who followed Sarah. The name of the club was inspired by Harry Burns Hutchins, then professor of equity at Michigan (and later, dean of the Law School and then president of the University), who said: "Equity has been the savior of woman." By this, he probably meant that equity softened the hard and rigid rules of common law; that it complemented, rather than competed with, common law; and provided flexibility and fairness and law from the heart, rather than common law's rigid and pure logic.

The admission of women to Michigan was significant because of the quality and size of the Michigan Law School. By 1890, Michigan had graduated more women than any other law school. New York University and Cornell law schools opened to women that year; the University of Chicago from its founding in 1901; Yale Law School in 1918, and others so that by 1920, women had been admitted to 102 of 142 law schools. Not until 1927 did Columbia, and 1950 did Harvard, admit women.

The University of Michigan Law School, when it first admitted women in 1870, was a pioneer if not a literal "first."

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There is only one of Sarah's letters in *Women Lawyers and the Origins of Professional Identity in America*, but it echoes the values of the Equity Club. Her letter, written from Ashland, Ohio, on May 7, 1888, is either shy or secretive:

To the Members of the Equity Club,

You asked me to join your society, and write a letter—"Personal experience preferred." The former I will gladly do—the latter, partially decline.

I could not reveal the secrets of my life, even to the Equity Club, and the ordinary routine is too tame for interest. The touch of the Master can alone awaken the truest melodies of our nature, and only this ear is attuned to understand its refrain. His will be done.

Woman's place in the practice of the law, as elsewhere, is not so much to bring to it wisdom and justice, as the purifying graces—lifting the profession to higher and nobler purposes than the selfish aggrandizement that now characterizes so much litigation.

The wrecks of manhood strewn all along the shoals of this occupation tell plainly how much principle has been sacrificed for success.

Ours the part to give to the profession the love-lit hues of Christ's teaching so beautifully set forth in the "Golden Rule," a development of faith and trust in an over-ruling Providence in the practical affairs of life—to which the practice of the law is so opportune.

Daily living, loyal to humanity, to the truth, to the right, and to God.

Mrs. Sarah K. Wertman,
Graduate of the Law Class of
Michigan University of 1871



The information in this article is extracted from:

Women Lawyers and the Origins of Professional Identity in America, edited by Virginia Drachman, Ann Arbor, University of Michigan Press, 1993.

“Women Lawyers in the United States”, by Lelia J. Robinson (also a member of the Equity Club), *2 Green Bag* 10-32 (1890), a foundational piece of original research based on her correspondence with deans of law schools around the country, and the basis—whether cited or not—for much of what has been written about “first women in law” since then.

“Michigan’s First Woman Lawyer”, 63 *Michigan Bar Journal* 448 (June, 1984), which contains a “brief statement [by Wertman] in 1912”, with no further attribution.

“Sarah Killgore Wertman”, in *Women of the Century: Fourteen Hundred Seventy Biographical Sketches Accompanied by Portraits of Leading American Women in all Walks of Life*, edited by Frances E. Willard. (Buffalo, Charles Wells Moulton, 1893; reprinted by Gale Research Company, Detroit, 1967, p. 759.) The portrait accompanying this article is from this work.

Sisters in Law: Women Lawyers in Modern American History, by Virginia G. Drachman, Cambridge, Harvard University Press, 1998.

“Feminist Lawyers”, by Barbara Allen Babcock, a review of *Sisters in Law: Women Lawyers in American History*, 50 *Stanford Law Review* 1689-1708 (1997-98), whose footnotes constitute an excellent bibliography on the subject.

In re application of Bradwell, 55 Ill. 535 (1869), affirmed by *Bradwell v. The State of Illinois* 83 U.S. 130 (1873).



The University's first Law Building, completed in 1863 and reconstructed in 1897.