

MRS. HELEN M. GOUGAR APPEARS BEFORE SUPREME COURT

Her Argument Receives High Esteem from Judge McCabe—She contends That the Constitution Does Not Contain Anything Denying Women the Right of Suffrage—Cases in the Courts.

Mrs. Helen M. Gougar yesterday argued the cause of woman suffrage before the supreme court of Indiana. The hearing was on an appeal from the circuit court of Lafayette. In 1884 Mrs. Gougar attempted to vote and the election officers refusing to take her ballot she brought suit and when an adverse decision was rendered appealed.

The court room was crowded with many ladies during the delivery of the argument. Among those present were all the state officers of the suffrage association with the exception of two who were prevented by illness from attending. Many members of the bar were also interested listeners. Mrs. Gougar's husband, John D. Gougar, who is a lawyer, and her associate counsel, S. M. Saylor, were likewise present.

Mrs. Gougar has been a practicing attorney for many years and although she has been refused admittance to the bar of the supreme court heretofore, yet she was permitted yesterday to take the prescribed oath of admission before commencing her argument, which was the third oral hearing ever presented to this court by a woman.

This suit, from the beginning, has been a friendly one and the purpose actuating both sides has been to obtain from the court of last resort an expression on the constitutionality of denying women the right of suffrage. The attorneys opposed to Mrs. Gougar have therefore extended every courtesy to the famous advocate of equal political rights. When Alexander A. Rice of Lafayette arose to argue the case for the appellees he spoke but a few minutes, resigning the rest of his time to Mrs. Gougar. He merely stated that the constitution gives male citizens over twenty-one years of age the right to vote, thereby implying a denial of the right to other persons. Mrs. Gougar consumed nearly two hours in presenting her argument, and that she made a very masterly one is best shown by the subsequent remarks of Judge McCabe, one of the members of the bench.

He said: "Mrs. Gougar made one of the most forcible, logical and concise legal arguments ever made before this court. Not one man in a hundred acquits himself so well."

Mrs. Gougar's Argument.

Mrs. Gougar's argument consisted of sixty-three counts. She began by stating that the principles and declarations of the bill of rights and the constitution of the United States made no distinction on account of sex. Freedom is one of the fundamental

rights and there can be no freedom without the power to protect that freedom. The right to vote is therefore inalienable, and if males only are given the ballot they become possessed of it by usurpation and freedom is no longer an inalienable right. The constitution of the United States makes women citizens on the same terms with men, and protects one class of citizens from usurpation by any other class where it says that no state shall make any law which abridges the privileges of citizens. The citizenship of women is no longer a debatable question under the constitution or statutory law, and any state that denies suffrage to any part of its sane, law-abiding citizens plainly violates the national constitution. The supreme court declared in regard to the negro that having been made a citizen he was a voter in every state, and it is thus shown that suffrage inures in citizenship. This is also shown in the case of an alien, who, as soon as he qualifies as a citizen, becomes a voter. If sex is a bar to citizenship and suffrage then the foreign male and negro are far above the mothers of American men. The revised statutes of the United States as well as the constitution show that citizenship and suffrage are inherent.

It is impossible for any state to deny women citizens the right of suffrage without violating both the spirit and the letter of the constitution and the statutes of the country. The fourteenth amendment says there shall be no denial of right because of race, color or "previous condition." Sex has always been "a previous condition." If the constitution of Indiana inhibits women from voting, as claimed by the appellees, then the court is justified in declaring such inhibition unconstitutional. The constitution of the state, however, does not inhibit woman suffrage. Sex cannot be taken as a "qualification" for voting, because it is non-attainable, and that which is non-attainable is a bar instead of a qualification. The state constitution provides that registration shall be a "qualification" for voting, but as the legislature has failed to provide a law to put this provision into force registration becomes a non-attainable. If a provision of the constitution which is unattainable is a bar to suffrage, then until the voters can register there are no legal voters in Indiana. It is held, however, that while registration is unattainable it is no bar; then, as sex is unattainable, it can be no bar. The argument of the appellees on the word "male" as a qualification amounts to nothing but words. The state constitution, being merely a limitation on the power of the legislature, the insertion of the word "male" can only be construed as a guarantee of the right of men to vote. The women have an equal right to vote, only the constitution fails to guarantee the right. Nothing short of prohibition can dispossess a citizen of rights that are fundamental, and there is no such prohibition against the suffrage of women in the constitution. No addition or subtraction to the law or the constitution of this state is necessary to enable women to vote.

If "citizen" or "person" does not mean woman as well as man then women is amenable to but few of the statutes and is not required to pay taxes. In Colorado, Utah, Wyoming and Idaho women vote the same as men, and the law merely states that "citizens" may vote.

The Conclusion.

These were the principal points of Mrs. Gougar's argument. In making which she cited many legal decisions and interpretations by eminent authorities. In conclusion she said:

"With these suggestions I close my argument. I am asking protection at the hands of this honorable court against a long established custom, and custom is a tyrant, but it is not written law. I am asking for no subversion of law and no legislation at the hands of the judiciary. I am asking for no violation of the fundamental principles of freedom of the charter of rights, human or divine. I am asking for an intelligent interpretation of the law as it is and for the protection of one-half of the citizens of Indiana in their pursuit of life, liberty and happiness.

"This court need not seek a new precedent to grant the request of the appellant, for this it has established in the Leach case. I ask a careful and unbiased study of the able brief of my associate counsel, Mr. Saylor, and also of the supplementary brief of the appellant, strong in the faith that we have made our case strong in the law, as well as in every principle of freedom, justice and human progress.

"Great occasions come to some men. Chief Justice Shaw, on behalf of the little black 'med,' rendered an opinion which forever made human slavery impossible in Massachusetts. Mrs. Rep. 18th Pickering, 9, 103. Human slavery had been practiced in the British empire for many generations. There was no line of written law to justify it. It had been upheld alone by custom and public opinion. A handful of reformers led by Wilberforce demanded its abolition. The slave, Somerset, brought suit for his freedom. The case was tried before Lord Mansfield of the queen's bench. This great mind rose to the full dignity of the occasion and with unbiased judgment gave the decree that has made his name immortal. He decided that slavery, being odious and against natural right cannot exist except by force of positive law. I care not for the

dictates of judges, however eminent, if they be contrary to principle. If the parties will have judgment let justice be done though the heavens fall. 'No slave can breathe on British soil.' Thus was abolished human slavery wherever the British empire holds sway.

"On behalf of the women citizens of Indiana, it is my prayer that this court may arise to the dignity of this great occasion, and with unbiased judgment give the decree that shall make me and my sex free. May your honors be the Chief Justice Shaws and the Lord Mansfields of Indiana!"