

## **Brown v. Phillips and others**

71 Wis 239 (1888)

*In this case, in a unanimous opinion, the Wisconsin Supreme Court declined to expand women's suffrage, reversing the Racine County Circuit Court. In doing so, the Court narrowly interpreted a state statute which gave women the right to vote only on school-related matters. In the opinion, the Court emphasized that the power to grant suffrage belonged to the Legislature. Justice John B. Cassoday wrote the opinion for the Court.*

In this case, the Wisconsin Supreme Court ruled that Chapter 211 of the Laws of 1885 could not be broadly interpreted to extend the rights of suffrage for women beyond school-related elections.\*

Here are the facts of the case: Olympia Brown, the most prominent early leader of the women's rights movement in Wisconsin and one of the first female ministers in the United States, attempted to vote in the 1887 Racine municipal election. On the ballot were candidates for mayor, city clerk, comptroller, alderman and supervisor. Brown argued that these positions pertained to school matters and that, therefore, women should be allowed to cast ballots. She was turned away and she sued the city.

Racine Judge John Winslow, who later became chief justice of the Wisconsin Supreme Court, agreed with Brown. He was, however, reversed by the Court.

The respondents (the election inspectors who refused to receive Brown's vote) argued that under Article III, Section 1 of the Wisconsin Constitution only citizens who were male and at least 21 years old were allowed to vote.\*\* The Court disagreed. Justice Cassoday wrote: "(T)he language is not 'that the legislature may at any time extend, by law, the right of suffrage to' such other 'male' persons or classes having the general qualifications mentioned, but 'to *persons* [emphasis in original] not *herein* enumerated."

But the Court declined to interpret the statute broadly, as Brown had requested. The justices asserted that they had "no power to grant suffrage to any one . . . To attempt, . . . to extend the act to objects beyond its purpose, would be nothing less than the usurpation of powers not only belonging to the legislature but to the qualified electors of the state."

The Court then examined the legislative history preceding the passage of the bill. At the same time that the statute governing who would be allowed to vote was working its way through the Legislature, a bill to extend the right of suffrage to women was defeated. The Court stated it did not believe it possible that the same body could, on the same day, take two completely antithetical stands on women's suffrage. Therefore, the Court concluded, "we are necessarily forced to the conviction that it was never intended thereby to extend an unlimited right of suffrage to women."

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

\*\* This mandated that the only qualified voters were: white males, over the age of 21, residents of the state for one year preceding any election, citizens of the United States or people who had declared an intention to become citizens "and also certain persons of Indian blood."