

## SUFFRAGE IN THE PACIFIC NORTHWEST

### Old Oregon and Washington

In 1840, there were three classes of settlements in Oregon Territory: first, the establishments, forts and trading posts of the Hudson Bay Company; second, the missionary establishments under control of religious societies; third, settlements proper by individuals. Willamette Valley was really the American Oregon, while the region north of the Columbia was in control of the Bay Company. No form of government existed except such as was exercised by the company, although the Methodist mission had provided a magistrate and constable for the protection of the rights of Americans in the country. There was opposition to this by the settlers and in a petition to Congress, they asked the protection of the United States and a territorial form of government.<sup>1</sup>

On Feb. 7, 1841, a meeting was held at Champoege, "for the purpose of consulting upon the steps necessary to be taken for the formation of laws and the election of officers to execute them." Little was done, but the Americans were beginning to organize, although not united as to form of government, even in the face of opposition which was sure to come from the Hudson Bay people.

At the grave of Ewing Young (Feb. 17, 1841) there was a general meeting of the settlers and the question of organizing a civil government was discussed. Nothing was accomplished in the subsequent meetings of that year but the appointing of Dr. Ira L. Babcock as supreme judge, with probate powers. One resolution is of note, however: "Resolved, That all settlers north of the Columbia River, not connected with the Hudson Bay Company, be admitted to the protection of our laws on making application to that effect."<sup>2</sup>

After the emigration of 1842 and 1843, the need of law was more apparent. A few leaders were quietly waiting an opportunity to establish some form of self-government. Among these was W. H. Gray. He found, or made his opportunity, at the "wolf meeting" of Feb. 2, 1843. After the "wolf business" was disposed of, Mr. Gray, in a strong speech, proposed: "That a committee of twelve persons be appointed to take into consideration the propriety of taking measures for the civil and military protection of this colony."<sup>3</sup>

<sup>1</sup>Senate Document No. 514, Twenty-sixth Congress, First Session; quoted in Gray's "Oregon," pp. 194-196.

<sup>2</sup>Grover, Oregon Archives, p. 5.

<sup>3</sup>Gray, History of Oregon, pp. 266-267.

The resolution was adopted and Oregon had begun her famous Provisional Government. The opposition of the British was soon manifest and at the meeting of May 2, 1843, the entire male population of Oregon was present. When a division and count was called for, the count stood fifty-two for and fifty against the organization of government.

On July 5, 1843, the Organic Law was adopted by the people of the territory and officers were elected. In that first election, the settlers, the disaffected Methodist Mission, and some of the British took part. The Organic Law read: "Be it enacted by the free citizens of Oregon Territory" and the official oath was phrased, "As consistent with my duties as a citizen of the United States or a subject of Great Britain,"<sup>4</sup> so no distinction was made on account of nationality in granting suffrage. By 1845, all classes had become reconciled to the existence of the Provisional Government. The Organic Law was amended and strengthened, and officers were elected from the British as well as from the American element. An attempt was made on Aug. 15, 1845, to shut out the foreign element when Mr. Hill offered the following resolution in the Assembly, "That no person belonging to the Hudson Bay Company, or in their service, shall ever be considered as citizens of the Government of Oregon nor have the right of suffrage or the elective franchise."<sup>5</sup>

When the memorial was sent to Congress in 1845, praying that body to "establish a distinct Territorial Government, and to legalize the acts of the people so far as they are in accordance with the laws of the United States,"<sup>6</sup> a copy of the Organic Law containing this provision was sent also. "Every free male descendant of a white man, inhabitant of this Territory, of the age of twenty-one years and upward, who shall have been an inhabitant of this Territory at the time of its organization, shall be entitled to vote at the election of officers, civil or military, and be eligible to any office in the Territory; provided, that all persons of the description, entitled to vote by the provisions of this section, who shall emigrate to this Territory, after organization, shall be entitled to the rights of citizens after having resided six months in the Territory."<sup>7</sup>

On Aug. 14, 1848, the Oregon Act created Oregon Territory and Sec. 5 reads: "Every white male inhabitant of twenty-one years of age, resident of the Territory at passage of this act, shall be entitled to vote at the first election, but all qualifications of voters at all subsequent elections shall be prescribed by the Legislative Assembly, provided: that the right of suffrage and of holding office shall be exercised by citizens of the United States, provided further: No officer, soldier, seaman, or marine, or other

<sup>4</sup>Grover, Oregon Archives, p. 28.

<sup>5</sup>Grover, Oregon Archives, p. 108.

<sup>6</sup>Grover, Oregon Archives, p. 106.

<sup>7</sup>Senate Document No. 353, Twenty-ninth Congress, ser. No. 476.

person attached to the service of the United States, shall be allowed to vote unless he has been a resident of the Territory for six months." Thus when Oregon came under the laws of the United States, the question of naturalization had to be considered and the Legislature of 1851 granted the right of suffrage to free white male citizens, or foreigners, duly naturalized, but it also provided that foreigners who had resided in the Territory five years previous to the Act, who had filed a declaration of intention to become citizens prior to January, 1850, should be entitled to the rights of citizens. Any question as to qualifications was to be decided by the judges, who were to require oath or affirmation in case of doubt.<sup>8</sup> The law of 1853 made little change and simply classified voters as free white male inhabitants, citizens of the United States.<sup>9</sup>

This ends the first period of suffrage in the Territory, for on October 25, of the previous year, 1852, a convention, which met at Monticello, had sent a memorial to Congress asking that Northern Oregon be organized as a separate Territory under the name of Columbia. On November 4, the Oregon Legislature made the same petition to Congress and on March 2, 1853, the Territory of Washington was created. The Organic Law, with amendments, was the constitution of the Territory until statehood. The qualifications of voters, given in Sec. 5 of the Organic Law, were identically the same as the qualifications of electors in the Oregon Act of 1848.<sup>10</sup> Gov. Isaac I. Stevens in his first proclamation, 1854, gives the number of inhabitants in Washington Territory as 3965, and the number of voters as 1682, and suggests an annual census to ascertain the qualified electors on account of the constantly increasing population.<sup>11</sup> Almost the first thing considered by the new legislature was the question of elections, and the first section of the first statute of the laws of 1854 defines the qualifications of electors. The status of the half-breed seemed to be the paramount issue with our first legislators. Several amendments were offered in the House, such as "No American half-breed shall vote unless naturalized," "American half-breeds, or Indians, now citizens shall have a vote."<sup>12</sup> These amendments were lost in the House, but when the council passed House Bill No. 51, the following proviso was added: "Provided, that nothing in this act shall be construed as to prohibit persons of mixed white and Indian blood who have adopted the customs and habits of civilization from voting."<sup>13</sup> The House accepted the amendment April 14, 1854, and in the discussion, Mr. A. A. Denny moved to amend the amendment, as "to allow all white females over the age of eighteen years

<sup>8</sup>Laws of Oregon, 1851, p. 104.

<sup>9</sup>Laws of Oregon, 1853, p. 69.

<sup>10</sup>Laws of Washington Territory, 1854, p. 35.

<sup>11</sup>House Journal, Washington Territory, 1854, p. 20.

<sup>12</sup>House Journal, Wash. Ter., pp. 58-61.

<sup>13</sup>Council Journal, Wash. Ter., 1854-5, p. 110.

to vote."<sup>14</sup> This was lost and the right of suffrage was given to "All white male inhabitants of twenty-one years, of three months' residence, provided they were citizens of the United States, or had declared their intentions to become such." The foregoing proviso was incorporated in the bill, and suffrage was denied to "persons under guardianship, insane persons, and persons convicted of treason, felony, or bribery unless restored to civil rights."

Soon after this law was passed, the council received a memorial from the citizens of Lewis County, asking that suffrage be restricted to certain half-breeds, "those who could read and write." Leclair, a Catholic missionary of Cowlitz Mission, sent a message to the council approving this memorial and stating that the Indian half-breed needed some responsibility for improvement thrown upon him.<sup>15</sup> This memorial called forth a majority report opposed to, and a minority report in favor of the petition. Further legislation failed at this session, but in the second session, the question was again warmly discussed and the law of Jan. 25, 1855, gives the right of suffrage to "white American citizens, or white naturalized citizens having been in the Territory six months, and in the county twenty days preceding the election, with the proviso that no officer, soldier, seaman, or marine in the army or navy of the United States, should be allowed to vote."<sup>16</sup>

An amendment was suggested that residence should commence at time of persons leaving home to reside in the Territory, but this was struck out by the council. An amendment was also offered, "That the people be allowed to decide the question of suffrage at the next election," but was later withdrawn.

The first session gave the right to vote at school elections to "Every inhabitant of twenty-one years, who was a resident in the district three months and who was a taxpayer." This law was amended in 1855 to read, "White American citizen and other white male inhabitant of twenty-one years and none other." In 1858, the school law affecting voters was changed to "Every inhabitant. . . ." and in 1860, another amendment restricted this suffrage to males and in 1863 to white males."<sup>17</sup>

In the 13th legislature, 1866, the question of giving the right of suffrage to half-breeds was again raised, and resulted in a new law by which the "American half-breed who held land under the donation law, and who could read and write and who had adopted the habits of whites," were given the right to vote."<sup>18</sup> The attempt was made to word the law

<sup>14</sup>House Journal, Wash. Ter., 1854, p. 98.

<sup>15</sup>Council Journal, Wash. Ter., p. 126 and following.

<sup>16</sup>Laws of Wash. Ter., 1854-5, p. 7, Second Session.

<sup>17</sup>Laws of Wash. Ter., 1854-5, 1858, 1866, 1863.

<sup>18</sup>Laws of Wash. Ter., 1866, p. 24.

"half-breed Indians" and also to include "mulattoes." This failed, but the law excluded "those who had borne arms against the United States of America," thus showing the attitude of the state against the Confederates and the attempt to conform to existing United States conditions. This law was amended Jan. 31, 1867, and reads, "All white American citizens twenty-one years of age, and all half-breeds twenty-one or over, who can read and write and have adopted the habits of whites, and all other white male inhabitants who have declared their intentions to become citizens six months previous to election, and have taken oath to support the Constitution of the United States and the Organic Act of the Territory, who have not borne arms against the United States of America or given aid and comfort to enemies, unless pardoned, and who shall have resided six months in the Territory, and thirty days in the county shall be entitled to vote."<sup>19</sup> The same restrictions held against military and naval men unless a resident for six months or a citizen at time of enlistment.

It was stated on the floor of the House by Edward Eldridge that this law included women.<sup>20</sup> The events of the next few years show that many considered that women were entitled to vote under the law of 1867. The whole matter hinged on "What constitutes an American citizen." Some held that the 14th amendment, which was declared in force July 28, 1868, and which reads, "All persons, born or naturalized. . . . shall be citizens of the United States and of the state wherein they reside," included women. In 1869, Mrs. Mary Olney Brown of Olympia offered her vote at the polls and it was refused on the ground that she was not an American citizen. When she quoted the 14th amendment, she was told by one of the judges that the laws of Congress did not extend over Washington Territory. This raised a protest, but the vote was still refused. In 1870, Mrs. Brown again offered her vote, which was again refused, while in Grand Mound precinct, twenty-five miles from Olympia, her sister, Mrs. Charlotte Olney French, and several other women voted. The returns from Black River precinct and other places showed the votes of women.

In 1871, Mrs. Abigail Scott Duniway and Miss Susan B. Anthony visited all towns of importance in Washington and Oregon in the interests of woman suffrage. On Oct. 20, 1871, Miss Anthony spoke before a joint session of the legislature on their invitation.<sup>21</sup> A convention called for Oct. 28, 1871, at Olympia resulted in the First Territorial Woman Suffrage Organization. The difference of opinion was so de-

<sup>19</sup>Laws of Wash. Ter., 1867, p. 5.

<sup>20</sup>Stanton, Anthony, Gage, *History of Woman Suffrage*, Vol. III., p. 781.

<sup>21</sup>House Journal, Ter. of Wash., pp. 53, 67.

cided that some legislative action was necessary. A bill to allow women the ballot failed of passage and the following law was passed on Nov. 29, 1871:

"Sec. 1. Be it enacted, that hereafter no female shall have the right of ballot at any poll or election precinct in this Territory until the Congress of the United States of American shall, by direct legislation upon the same, declare the same to be the supreme law of the land.

"Sec. II. This act to take effect and be in force from and after its passage."<sup>22</sup>

Yet this same legislature made the school law to read, "Every inhabitant. . . ." In 1873, the school law was amended to, "Every inhabitant who is a taxpayer. . . ." and in 1877, the right of suffrage at school elections was given explicitly to women.

In 1878, when the question of statehood was being discussed, Mrs. A. S. Duniway was allowed by the legislature to present a petition that the word "male" be omitted from the new state constitution. The petition was denied by a vote of 8 to 7, but a separate article was submitted which declared, "that no person should be denied the right to vote on account of sex." This was lost by a vote of 3 to 1. In 1881, a bill to allow woman suffrage passed the House by a vote of 13 to 11, but failed in the council by a 7 to 5 vote.

On Nov. 23, 1883, an amendment to Sec. 3050, chap. 238, of the Washington Code, made the law read, "All American citizens of twenty-one years, and all American half-breeds. . . ., and all other inhabitants. . . . Sec. 2. Wherever the word 'his' occurs in the chapter aforesaid, it shall be construed to mean 'his' or 'her,' as the case may be."<sup>23</sup>

This house seemed quite favorable to the question of woman suffrage, for on Oct. 8 a resolution had been passed, "That the speaker send congratulations to the American Female Suffrage Association, now in session in Brooklyn, N. Y."<sup>24</sup> The struggle was in the council, which had been thoroughly canvassed, and the promise of every member obtained that they would not speak against the bill, and stillness reigned in the chamber, broken only by the roll-call, when the final vote was taken. It stood 7 to 5 in favor of the measure.<sup>25</sup>

In 1886, the amended law was again amended and is worded, "All American citizens, male and female, all American half-breeds, male and female, who have adopted the habits of whites, and all other inhabitants, male and female. . . ."<sup>26</sup>

<sup>22</sup>Laws of Wash. Ter., 1871, p. 175.

<sup>23</sup>Laws of Wash. Ter., 1883, pp. 39-40.

<sup>24</sup>House Journal, Washington Territory, 1883, p. 41.

<sup>25</sup>Stanton, Anthony, Gage, *Hist. of Woman Suffrage*, V. 3, p. 777.

<sup>26</sup>Laws of Wash. Ter., 1886, p. 113.

Under the law of 1883, women were competent to serve as jurors, but in 1887, in the case of *Harland vs. Territory of Washington*, Judge Turner of the supreme court ruled "that women had no right to sit on a jury because the law granting rights to women was not given a proper title."<sup>27</sup> Judges Greene and Hoyt held the law valid, but Judge Hoyt was disqualified, as he had been trial judge in the lower court.

The legislature of 1887-88 had been elected by both male and female votes and seemed determined to re-establish the law which the supreme court had overthrown. Numerous bills were introduced in the House. On Jan. 16, 1888, the Committee on Judiciary reported a substitute bill for House Bills Nos. 2, 3, 4, prescribing the qualifications of voters. House Bill No. 23, giving to women the right of voting, and House Bill No. 36, submitting to voters the question of female suffrage. The substitute bill was rejected by the House, and Council Bill No. 44 was passed on Jan. 18, 1888, which again gave to women the ballot.<sup>28</sup>

In this year a convention for framing a new state constitution was to meet, and the opponents of woman suffrage were anxious to have a supreme court ruling on the legality of the new law before the election of delegates to the convention. The vote of Mrs. Nevada Bloomer of Spokane was refused in the spring election, Apr. 3, 1888, suit was brought and the case rushed. On Aug. 14, 1888, Judges Turner and Langford held that the law was invalid and not in accordance with the United States laws, in spite of the fact that the United States in the Organic Act gave to the territorial legislature the right to confer the elective franchise.<sup>29</sup> After a hard fight, the convention agreed to submit to the people an independent clause concerning suffrage of women, but this amendment was lost by a 3 to 1 vote.

The enabling act declared that there should be no distinction in civil or political rights on account of race or color except as to Indians not taxed. The new constitution gave suffrage to all "male persons" and the legislature might provide "that there shall be no denial of the elective franchise at any school election on account of sex." This franchise was granted by the first state legislature. Incompetents were excluded from the privilege and the same regulations held as to military and naval men, absence from state on business, etc.

Section 6 of Article VI. provided for the Australian ballot, which has proved a great step forward in giving the voter a chance to express his own wishes at the polls. Under the old system, "slip tickets" were printed by the party and contained the names of persons standing for the same

<sup>27</sup>Washington Territorial Report, Vol. III., p. 131.

<sup>28</sup>House Journal, Wash. Ter., 1888, p. 167. Laws of Wash. Ter., 1888, p. 93.

<sup>29</sup>Washington Territorial Reports, Vol. III., p. 599.

interests. These slips or tickets were distributed by party or corporation agents at polling places. The voter could have the privilege of scratching; but the party tendency was stronger, however, when a list was in his hands. The absence of secrecy often led to bribery and intimidation. Expenses were paid by assessments on candidates and this was, in many cases, a virtual selling of nominations. The Australian ballot, providing, as it does, for the official printing of ballots and including the names of all candidates, gives the voter a chance to mark for himself, and secretly, the names of all he wishes to vote for. Elections are, therefore, more orderly and more nearly express the desires of the people than in the days of the "boss" or unscrupulous politician.

The compulsory registration law for general, special, and municipal elections in communities of more than 250 inhabitants, which was passed by the first legislature, tended, not to restrict voting, but to protect each citizen in that right. No foreign or undesirable element could be rushed in to overcome the votes of residents. Stringent laws against false and illegal voting had been passed by the different territorial legislatures. A disqualification for two years' clause for illegal voting had existed upon the statutes since 1862. These were re-enacted and strengthened by the legislature of 1890.

The legislature of 1895 submitted to the people an amendment to the constitution somewhat raising the standard of citizenship. It provided "that voters shall be able to read and speak the English language."

In 1897, the following amendment was offered to amend Article VI. of the constitution by adding Section 9: "The elective franchise shall never be denied any person on account of sex, notwithstanding anything to the contrary in the constitution."<sup>30</sup> The amendment was lost at the November, 1898, election, but not so overwhelmingly as in 1889.

In 1901, a slight change was made in the reading of the law, but the qualifications of voters remained unchanged until Nov., 1910, when sections 1 and 2 were stricken from Article VI. of the constitution, and section 1 was made to read: "All persons of the age of twenty-one years or over, possessing the following qualifications shall be entitled to vote: They shall be citizens of the United States; They shall have lived in the state one year, and in the county 90 days and in the city, town, ward, or precinct 30 days immediately preceding the election at which they offer to vote; They shall be able to read and speak the English language; provided, that Indians not taxed shall never be allowed the elective franchise, and provided further, that this amendment shall not affect the rights or franchise of any person who is not a qualified elector of this state; The legislative authority shall

<sup>30</sup>Laws of the State of Washington, 1897, p. 92.

enact laws defining the manner of ascertaining the qualifications of voters as to their ability to read and speak the English language, and providing for punishment of persons voting or registering in violation of the provisions of this section; there shall be no denial of the elective franchise on account of sex."<sup>31</sup> This amendment to the constitution gave to women, for the third time, the right of suffrage.

On March 15, 1907, a direct primary law was passed by the legislature. This put into the hands of the people a great power, a power hitherto held by the party, or by the politician element of the party. Its tendency is to do away with the caucus and convention where, too often, the interests of the people are trampled upon to gratify the personal ambition of a party leader. Any citizen may file his intention to run for any office thirty days before the primary, accompanied by a fee in proportion to the emoluments of the office. Then the majority vote of the people determines the candidates.

In the same year, another forward movement was inaugurated. The recall was obtained for Seattle by popular vote and without expense. Under the charter, the citizens have a right to propose amendments by petition, and this was the first case of "initiative" by the people. The Seattle law was drawn as a measure to amend the length of term of city officials.<sup>32</sup>

The last legislature, 1911, proposed an amendment to Article I. of the constitution couched in these words: "Every elective public officer in the State of Washington, except judges of courts of record, is subject to recall and discharge by the legal voters of the state."<sup>33</sup> This is to come before the qualified voters at the next state election, Nov., 1912. Another amendment to Art. II., Sec. I., is to be decided upon at the same time, that of the "initiative and referendum." Under this law, ten per cent of the people may propose a measure, and the referendum may be ordered on "any act, bill, law, or part thereof, by the legislature, except such as are necessary for immediate preservation of public peace, etc."<sup>34</sup>

These measures are but steps in the right direction and show growth toward a better democracy and a more liberal granting of the right of suffrage.

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<sup>31</sup>Laws of the State of Washington, 1909, p. 26.

<sup>32</sup>Parker, A. M., "How Seattle Got the Recall." *Pacific Monthly*, April, 1907, pp. 455-460.

<sup>33</sup>Laws of the State of Washington, 1911, p. 504.

<sup>34</sup>Laws of the State of Washington, 1911, p. 136.