

ADDITIONAL NOTES ON THE CONSTITUTION  
OF 1878

In the years 1918-1919 Professor Edmond S. Meany and Dean John T. Condon, of the University of Washington, published in the *Washington Historical Quarterly* a series of articles entitled *Washington's First Constitution, 1878, and Proceedings of the Convention*. These articles included not only the proceedings of the convention, as published in the *Walla Walla Union* at the time the convention was in session, but also the text of the constitution, together with an introduction by Professor Meany and annotations by Professor Meany and Dean Condon. Subsequently the entire work was published in pamphlet form and has proved to be of great value to students of the political history of Washington.

At the time the constitutional convention was being held in Walla Walla, in the summer of 1878, there was only one newspaper in existence in Eastern Washington north of Snake River. This was the *Palouse Gazette*, the first number of which came from the press in Colfax on September 29, 1877. The *Gazette* was a weekly newspaper, published by Lucien E. Kellogg and Charles B. Hopkins. As this newspaper was the only representative of "journalistic opinion" in the "upper country," I have recently examined the first two volumes with a view to ascertaining, if possible, what its opinion was on the subject of statehood.<sup>1</sup> As a result of that investigation, I am offering herewith some "additional notes" on the constitution of 1878. Some of the information herein set forth differs slightly<sup>2</sup> from that gathered by Professor Meany and Dean Condon, and in one instance I have used a document which apparently was not available to these men. This is the official proclamation of Governor Elisha P. Ferry, announcing the results of the election of November 5, 1878.

On February 16, 1878, as the time for choosing the delegates to the convention drew near,<sup>3</sup> the *Palouse Gazette* expressed itself editorially as follows:

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<sup>1</sup> I am indebted to the Bramwell Bros., publishers of the *Colfax Gazette*, for the use of their file.

<sup>2</sup> Compare the vote, as announced in Governor Ferry's proclamation, *infra*, with the returns compiled by the *Oregonian*. See *Washington's First Constitution, 1878, and Proceedings of the convention*, p. 62. Also note the slight difference between the total vote given in the two places for Whitman County. In the governor's proclamation the vote of the three counties of Northern Idaho is given.

<sup>3</sup> The election to choose delegates was held on April 9, 1878.

"We had hoped that the men chosen to the high and important trust of framing a constitution for the future State of Washington, to be submitted to the people for rejection or adoption, might enter upon their work unfettered by political obligations or feeling that they should be guided by former party predilections. Present indications, however, show unmistakable signs of a close adherence to political parties in the selection of those delegates. Already the press of both political parties are calling conventions for the nomination of partisan delegates, and there are reasons to warrant the belief that Republicans and Democrats will exert their utmost power to gain the ascendancy of strength in the convention. Right here will be found the great mistake; whatever may be the result of such a body's deliberations will be received with suspicion and distrust by the mass of people to whom the instrument will be submitted—and the people should look well to the production of that convention. It is to be the chart by which a great and intelligent people are to be guided in future years, upon which depends in a great measure the degree of prosperity the new state is to enjoy. We would like to see the representative men of both parties come together and agree upon the persons that are best fitted by their sound, common sense and practical capacity to frame a constitution that will bear all legal tests and be worthy of the State of Washington. Let not this important trust be placed in the hands of those who make politics a trade, only to incur a great expense upon the territory, and receive the just reproof of the people."

On March 9 the *Gazette* gave editorial approval to the choice of the Republican party, Captain James Ewart of Colfax, as the representative for the counties of Whitman, Stevens and Columbia. Three weeks later, when James V. O'Dell, an attorney of Colfax, announced himself as an independent candidate, the *Gazette* also spoke in favorable terms of his candidacy. Thereafter it remained silent on this question, assuming a position of "strict neutrality."<sup>4</sup>

"There is a universal feeling of indifference on the part of the mass of people in regard to next Tuesday's election," declared the *Gazette* of April 6. "So utterly oblivious do they seem that it will not be surprising if there be no vote cast. This indifference is not confined to Whitman County or to Eastern Washington, but all over the territory. If we are to be admitted into the

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<sup>4</sup> Editorial, *Palouse Gazette*, March 30, 1878.

Union as the thirty-ninth state, it is highly important who are elected to make the constitution."

Two weeks later, in announcing the election returns for Whitman County, the *Gazette* stated that a "very light vote was cast, giving no idea of the voting population of the county." The following returns were made:

For Delegates at Large

W. A. George .....	269
A. J. Cain.....	5
S. M. Gillmore.....	156
Edward Eldridge .....	152

First District

S. M. Wait.....	263
W. S. Gillmore.....	6
A. J. Cain.....	1

Joint Council District (Whitman, Stevens and Columbia Counties)

James V. O'Dell.....	151
James Ewart .....	147
Against Railroad Subsidy.....	71
For Railroad Subsidy.....	1

Between the election of the delegates and the opening of the convention in the following June the *Gazette* paid little attention to the proposed constitution. On June 8 it announced that on "next Tuesday the delegates elected to form a state constitution for this territory will meet in Walla Walla to enter upon their duties. This delegation is composed of the best men in the territory, many of them being lawyers of recognized ability and experience. The political complexion of the convention is eight Republicans and seven Democrats,<sup>5</sup> but as party lines were entirely ignored in the election of delegates, it is hoped they may be in the convention."

Complete reports of the work of the convention did not find space in the Colfax newspaper, but occasionally a correspondent who signed himself *Ariel* contributed articles to the *Gazette*. On June 17 he wrote as follows:

"Mrs. A. J. Duniway petitioned the convention for leave to read a 'Memorial' to that body; considerable opposition was made to this proceeding by Messrs. Larrabee, Hannah and O'Dell, but

<sup>5</sup> The *Walla Walla Union* called the convention "another electoral commission." Quoted in *Palouse Gazette*, June 8, 1878. The Hayes-Tilden contest was apparently still fresh in the minds of the people.

the leave was granted by a vote of ayes and nays, resulting in 7 ayes to 6 nays, so on yesterday at 10 o'clock, that lady proceeded with her show—and instead of a 'memorial' we were regaled with a regular stump speech, and tonight she holds forth at the Unitarian church, in what she is pleased to call 'an argument' in favor of woman suffrage."<sup>6</sup>

On June 26, in reference to the question of boundaries, *Ariel* wrote as follows:

"On Saturday last the committee on boundaries made their report. In the boundaries they included the three northern counties of Idaho. When this article came up for consideration, Mr. Larrabee moved an amendment, striking out that part of the section including the counties of Northern Idaho, and bounding the state by lines as they now define Washington Territory. Upon this proposition a long and heated discussion ensued between Messrs. O'Dell and Leland in favor of the boundaries as reported by the committee, and Messrs. Larrabee and Bradshaw opposed to it. The discussion lasted for two days, when upon the final vote the report of the committee was adopted by a vote of ayes, 11, noes 3."<sup>7</sup>

The question of boundaries was one full of political dynamite, for there was at this time a strong opinion in the country north of Snake River, and perhaps throughout Washington Territory as a whole, in favor of the annexation of Northern Idaho to Washington. So, in order to correct the misrepresentation contained in *Ariel's* dispatch, Mr. Larrabee wrote on July 10 the following letter to the editors of the *Gazette*:

"Hall of Constitutional Convention

"Walla Walla, W. T., July 10, 1878

"EDS. PALOUSE GAZETTE—In your last issue your Walla Walla correspondent represents Messrs. Abernethy, Bradshaw and myself as voting against the incorporation of Northern Idaho into the State of Washington. This statement places us in a false position, for not a single member of the convention has thus far offered any objection to the including that portion of Idaho. We only differ as to the best mode of accomplishing the object. The committee reported boundaries, including two counties of Idaho

<sup>6</sup> Mrs. A. J. Duniway was for many years the champion in the Pacific Northwest of the woman-suffrage movement. She traveled extensively and lectured on this subject to many audiences, and, at the same time, she published in Portland, Oregon, a suffrage newspaper called the *New Northwest*. See her book entitled *Path-Breaking* (Portland, second edition, 1914). Also see *Washington's First Constitution*. . . . ., p. 13. Mrs. Duniway was a sister of Harvey W. Scott, the famous editor of the *Oregonian*.

<sup>7</sup> *Palouse Gazette*, July 6, 1878.

and part of a third, to which report I offered the following emendment to the boundaries of Washington Territory:

“Provided, however, That the following alterations of the aforesaid boundary be, and hereby is proposed to the Congress of the United States as the nearly unanimous desire of the people included therein, and as the preference of the State of Washington, and if the same shall be assented and agreed to by the Congress of the United States, then the same shall be and forever remain obligatory on the State of Washington.”<sup>8</sup> Then follows the boundaries as reported by the committee, including Idaho.

“It will be observed that this plan is not open to the objection that we are seizing upon a sister territory without her consent, and the further obligation that we have no power to provide for the conservation of public or private rights, growing out of the judgments of courts or the acquisition of property through any other means; this can be done by Congress alone. But the convention has adopted the other plan, and we shall all stand by it to the end. Yours,

Charles H. Larrabee,  
Delegate from the Third Judicial District.”<sup>9</sup>

The text of a memorial relative to the improvement of Snake River for navigation, which was reported to the convention by Messrs. O'Dell, Bradshaw and Henry, was printed in the *Palouse Gazette* of July 26, 1878.<sup>10</sup>

The printing of the text of the constitution was commenced in the *Gazette* of August 23, but not until the following week was there editorial mention therein of this document. In the issue of August 30, answering a complaint of the editor of the *Lewiston Teller*, the *Gazette* declared:<sup>11</sup>

“We have seen no reason for discussing the constitution; but that we may be plainly understood, and not accused of the despicable principle of catering approbation, let us inform the *Teller* that the *Gazette* is anxious for the annexation of Northern Idaho to Washington and the adoption of the state constitution. If the question was as to the immediate admission of the territory into

<sup>8</sup> This plan proposed a line of action similar to that adopted by the Oregon constitutional convention in 1857. The Oregon convention provided for the annexation to Oregon of all that territory in Washington lying south of Snake River, with the proviso, however, that this might be changed by the Congress. When Oregon was admitted in 1859 its northern boundary as a territory was fixed as the northern boundary of the new state and the Walla Walla country was allowed to remain a part of Washington.

<sup>9</sup> *Palouse Gazette*, July 20, 1878. This letter corroborates the account given in the official proceedings. *Washington's First Constitution*. . . ., p. 7.

<sup>10</sup> See *Washington's First Constitution*. . . ., p. 24.

<sup>11</sup> Alonzo Leland, the editor of the *Teller*, had represented the Idaho counties in the convention.

the Union, we would oppose it. Or if the adoption of the constitution was to hasten it, our better judgment would compel us to oppose it. But a constitution has been framed at a cost of nearly seven thousand dollars; the people can adopt this, and Congress will judge when Washington has the necessary population to entitle her to admission."

The question of the adoption of the constitution, particularly that of annexation, became associated with a bitter contest for the delegateship between Thomas H. Brents and N. T. Caton. Both candidates expressed themselves in favor of the annexation of Northern Idaho to Washington and against the annexation of Walla Walla and Columbia Counties to Oregon. Caton declared that he favored the adoption of the constitution notwithstanding its defects.<sup>12</sup>

On October 4 the *Gazette* copied from the *Olympia Transcript* an editorial urging the adoption of the constitution. The *Transcript* declared: "Its opponents are mostly corporation sympathizers, office holders and official aspirants, whom it guards against, in any schemes which they may hereafter have to control the state government. It protects the masses of the people—the laboring classes—against an unjust discrimination in taxes; makes corporations liable for labor done for their benefit, and stock holders personally liable for debts of their company, as far as labor is concerned."

The *Transcript's* view was subsequently adopted by the *Gazette* for its own, and on October 11, "after considering the subject in every light," the *Gazette* urged the adoption of the constitution on these grounds: that it was as good as the constitution of any other state of the Union; that its adoption did not mean immediate admission; that to reject it would be equivalent to announcing to the people of Northern Idaho that they were not wanted in the proposed state; and lastly, that it was being opposed by the "railroads and other corporations."<sup>13</sup>

On November 1 the *Gazette* published the three separate articles, which dealt with the subjects of woman suffrage and local option. The first two being easily "recognized as Mrs. A. J. Dunway's woman suffrage part of the constitution," the *Gazette*, "without comment," left them to "the good sense of the people."<sup>14</sup>

<sup>12</sup> *Palouse Gazette*, September 27 and November 1, 1878.

<sup>13</sup> The Oregon Steam Navigation Company, which controlled the Snake and the Columbia Rivers, was at this time exacting a heavy tribute of the people living in the Inland Empire. It was often referred to as a "grinding monopoly."

<sup>14</sup> The woman-suffrage articles were as follows: No. 1—"No person, who is otherwise a qualified elector, shall be denied the right to vote in this state, on account of

With respect to the third article (local option) the *Gazette* stated: "This has been proved the most effectual way of advancing the temperance cause that has as yet been devised, and should be adopted everywhere."

As early as October 25 the *Gazette* was certain that the constitution would be approved by the people of Eastern Washington. In the issue of that date the editors declared: "While traveling about this and Stevens counties for the last two weeks, we had an opportunity of learning how the people regarded the state constitution, and found them almost unanimously in favor of adopting it. The people express themselves satisfied with this constitution, and those features of it which are so offensive to corpulent speculators make it popular with the masses.<sup>15</sup> Eastern Washington will adopt it by a large majority."

The election returns for Whitman County, as published in the *Gazette* of November 15, 1878, follow:

Whitman County Election Returns—Official <sup>16</sup>	
For Constitution .....	716
Against Constitution .....	116
Suffrage Articles	
For Article No. 1.....	101
Against Article No. 1.....	275
For Article No. 2.....	95
Against Article No. 2.....	267
Local Option	
For Article No. 3.....	253
Against Article No. 3.....	154

Governor Ferry's proclamation, announcing the returns for Washington and Northern Idaho, is as follows:<sup>17</sup>

Whereas, at a general election, held in the Territory of Washington on the fifth day of November, A. D., one thousand eight hundred and seventy-eight, there were submitted to the

sex, anything in this constitution to the contrary notwithstanding."

No. 2—"No person shall be denied the right, on account of sex, to vote or hold office in this state; nor shall such right be, in any manner, abridged on account of sex."

15 The *Palouse Gazette* of November 1, 1878, quoted the *Walla Walla Union* to the effect that Ladd & Tilton, bankers of Portland, would stop the construction of a proposed railroad in Southeastern Washington if the people of Washington adopted the proposed constitution. To this the *Gazette* replied: "This little proclamation of Oregon capitalists is alone enough to make the people of Washington arouse and show their independence by voting, to a man, for the adoption of the constitution. . . . Let them take their steel rails and make them into vaults in which to treasure their silver and gold, they cannot forge them into chains with which to bind down the intelligence and independence of the people of Washington."

16 The vote in Whitman County which was recorded by the *Oregonian* was as follows: For the Constitution, 746; against the Constitution, 116. *Washington's First Constitution*. . . . p. 62.

17 *Palouse Gazette*, February 7, 1879.

legal voters of said Territory, for adoption or rejection, a constitution for the State of Washington; and also three Separate Articles which should become a part of said constitution in the event of their adoption, and

Whereas, at a general election held in the counties of Idaho, Shoshone and Nez Perce, in the Territory of Idaho, on said fifth day of November, one thousand and eight hundred and seventy-eight, said constitution and Separate Articles were submitted for adoption or rejection to the legal voters of said counties, and

Whereas, it is made the duty of the Governor of said Territory of Washington to declare by proclamation the result of the votes cast and returned on the adoption or rejection of said Constitution and Separate Articles,

Now, therefore, I, ELISHA P. FERRY, Governor of said Territory, do hereby declare the following to be the result of the vote cast at said election in the Territory of Washington:<sup>18</sup>

For Constitution, six thousand five hundred and thirty-seven.  
Against Constitution, three thousand two hundred and thirty-six.

For Separate Article No. 1, one thousand eight hundred and twenty-seven.

Against Separate Article No. 1, five thousand one hundred and seventeen.

For Sparate Article No. 2, one thousand seven hundred and forty-five.

Against Separate Article No. 2, five thousand and sixty-one.

For Separate Article No. 3, two thousand eight hundred and seventy-four.

Against Separate Article No. 3, four thousand one hundred and fifty-one.

And I do further declare the following to be the result of the votes cast in said counties of Idaho, Shoshone and Nez Perce, in the Territory of Idaho:<sup>19</sup>

For Constitution, seven hundred and thirty-seven.

Against Constitution, twenty-six.

For Separate Article No. 1, one hundred and twenty-three.

<sup>18</sup> The totals printed in the *Oregonian* follow: For Constitution, 6,462; against Constitution, 3,231. *Washington's First Constitution*. . . ., p. 62.

<sup>19</sup> With respect to the vote in Northern Idaho the *Lewiston Teller* stated: "There were a few who seemed wholly indifferent upon the question, but at this time we can not learn of 25 votes cast against the Constitution in the three counties. Shoshone county cast but one vote against it. Mt. Idaho, the largest precinct in Idaho county, cast but two votes against it. Lewiston, the largest precinct in Nez Perce county, cast but four votes against it. The northern precincts of this county did nearly as well." *Washington's First Constitution*. . . ., p. 61.



Against Separate Article No. 1, two hundred and eighty-two.  
For Separate Article No. 2, one hundred and twenty-two.  
Against Separate Article No. 2, two hundred and eighty-two.  
For Separate Article No. 3, two hundred and twenty-one.  
Against Separate Article No. 3, one hundred and eighty-eight.  
And I do further declare that said Constitution has been  
adoptd.

And I do further declare that said Article No. 1, Article No.  
2, and Article No. 3 have been rejected.

In testimony whereof, I have hereunto set my hand and  
caused the Great Seal of the Territory to be affixed, at Olympia,  
this twenty-eighth day of December, A. D. 1878.

ELISHA P. FERRY,  
Governor.

By the Governor,  
N. H. OWINGS,  
Secretary.