

## DOCUMENTS

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### WASHINGTON'S FIRST CONSTITUTION, 1878.

As the Republic was preparing to celebrate its first centennial anniversary, interest in federal relations permeated the West. Colorado was admitted to the Union on August 1, 1876. That left about one-third of the domain of the United States still under the direct dominion of Congress until the Territories could evolve into States. In the Territory of Washington that interest in federal relations was given a peculiar and historic manifestation.

When Washington Territory was created on March 2, 1853, it included what is now Idaho and western portions of Montana and Wyoming. In a few years the miners and cattle men in that vast area east of the Cascade Mountains became ambitious along the lines of government. Three counties—Shoshone, Nez Perce and Idaho—were created in 1861. In January of that year a memorial to Congress was introduced in the Washington Territorial Legislature asking for the creation of the Territory of Walla Walla. It was not adopted and the eastern men then circulated a petition asking the Legislature to submit to the voters a constitution for a proposed State of "Idaho" to include the whole eastern area. On the last day of the session, January 29, 1863, a motion was carried to change the bill by substituting the word "Washington" for "Idaho" and in its amended form the bill was tabled. The mountain and valley men of the east then took their cause to Congress and on March 3, 1863, the Territory of Idaho was created, giving Washington the eastern boundary that has remained unchanged.

The people in the northern part or "panhandle" of Idaho were not content. They memorialized for a return to Washington. In 1867 there began a legislative agitation for statehood, the northern end of Idaho to be included. Each session of the Legislature submitted the question to the voters but no adequate response was received. In 1873 another scheme was attempted to create a new territory which should include Eastern Washington and the "panhandle" of Idaho. Then followed the preparation to participate in the Centennial Exposition. Aspirations were stimulated.

The Legislature in an act approved on November 9, 1875, once more submitted to the voters the question as to whether or not a constitution should be prepared for submission to Congress with a request

for statehood. Contrary to former experiences, it was found in the general election of 1876 that more than 7,000 voters had responded and the majority in favor of framing such a constitution was 4,168. At the next session of the Legislature, by an act approved on November 9, 1877, provisions were made for delegates to be elected and to convene at Walla Walla on the second Tuesday of June, 1878, to frame a constitution. There were to be fifteen delegates—three to be elected at large, one from each of the three judicial districts and nine to be chosen from the twenty-three counties, the apportionment being specified in the law and being the same as the Council (or Territorial Senate) districts. The counties of Idaho, Shoshone and Nez Perce in the Territory of Idaho were invited to elect a delegate who should have the privilege of the floor but not the right to vote. Two hundred dollars were appropriated for the compensation of the Idaho delegate.

According to the law, Governor Elisha P. Ferry called for the election of delegates and the following were chosen:

Delegates at large—Wyatt A. George, of Walla Walla County; Edward Eldridge, of Whatcom County; and Samuel M. Gilmore, of Klickitat County.

Delegates from the judicial districts—First, Sylvester M. Wait; Second, Benjamin F. Dennison; Third, Charles H. Larrabee.

Delegates from the Council districts—Charles M. Bradshaw, of Jefferson County, representing Clallam, Island, Jefferson and San Juan Counties; Henry B. Emery, of Kitsap County, representing Kitsap, Snohomish and Whatcom Counties; Lyman B. Andrews, of King County; Dolph B. Hannah, of Pierce County, representing Pierce, Chehalis and Mason Counties; Francis Henry, of Thurston County, representing Thurston and Lewis Counties; Alexander S. Abernethy, of Cowlitz County, representing Cowlitz, Pacific and Wahkiakum Counties; George H. Steward, of Clark County, representing Clark, Skamania, Klickitat and Yakima Counties; Oliver P. Lacy, of Walla Walla County; John V. O'Dell, of Whitman County, representing Columbia, Stevens and Whitman Counties.

The three Idaho counties sent Alonzo Leland of Nez Perce County, to represent them.

The delegates assembled in Walla Walla and on Tuesday, June 11, their formal sessions began. After forty working days they adjourned on July 27. The men were in earnest. They made a good impression as may be judged from the following editorial in the *Walla Walla Union* for June 15, 1878:

“Elsewhere will be found detailed reports of the proceedings of the delegates assembled to frame a Constitution for the State to be

made out of Washington Territory and Northern Idaho. Up to this date their attention has been occupied in clearing the ground and getting ready to work. Next week the serious business will commence. The delegates may be safely said to be the flower of Washington Territory. They are, with hardly an exception, fine looking, sedate, thoughtful men. Many of them have had large legislative and judicial experience. If the result of their labors does not meet the approval of the people, it will not be because it is the work of ignorant, bigoted men, but because of the inherent contrariness of the average voter."

But the average voter was not very contrary at that time. The Constitution was ratified by the people at the general election in November. However, it was never put into operation. When it had become known that a convention was going to be held, the Delegate in Congress, Orange Jacobs, introduced a bill in Congress for the admission of the State of Washington, in December, 1877. Again, after the Constitution had been framed and approved by the people, the newly elected Delegate in Congress, Thomas H. Brents, introduced another bill for the admission of the State. Neither of these bills received favorable action. Washington was to remain in territorial tutelage for another decade.

The delay was largely a matter of national politics. Professor Frederic L. Paxson says: "In Congress, however, there was little disposition to admit new states. Colorado had come in in 1876, and since its last territorial delegate, Thomas M. Patterson, was a Democrat, there had been a hope that it would cast three electoral votes for the Democratic candidate for President. Without its three, which were thrown against Tilden, General Hayes never could have made a successful contest for the office, and the course of history might have been changed." ("Admission of the Omnibus States," from the *Proceedings of the State Historical Society of Wisconsin for 1911*, page 81.) The Democrats had control of one or more branches of the Government from that time until the Fifty-first Congress, 1889-1891, with the exception of the Forty-seventh Congress, 1881-1883. During the last named Congress the bill for the admission of Dakota got at least a hearing. As soon as the Republicans regained control, in the Fifty-first Congress, six new Western States were admitted within two years, four of them by one act.

Although the Washington Constitution, framed and ratified in 1878, had no real life, it is still an important document in the history of the Commonwealth. It reflects better than any other form of literature the political, social and economic thought of the pioneer citizens of that time. In a democracy such a document is also of great value

when submitted to a comparative study with the Constitution adopted later and now in force.

Probably not one of the delegates who framed that older Constitution is now living, but we have available a rather complete record of the work done by the convention from day to day. After a refusal to employ a short-hand reporter, the committee on printing was authorized to secure the publication of a synopsis of the daily proceedings in some newspaper. The *Walla Walla Union* was selected. That paper was published weekly on Saturdays, and the proceedings here reproduced are taken from the issues from June 15 to August 3, 1878. The old newspapers have been loaned from the collection of Clarence B. Bagley, of Seattle. The archives of the University of Washington include a number of manuscripts emanating from and bearing upon the convention which will be mentioned in the footnotes as occasions arise.

#### *Proceedings of the Convention*

##### FIRST DAY

On Tuesday, June 11th, at 12 M., the duly elected delegates to the Constitutional Convention convened at Science Hall, in this city.

Col. W. A. George, delegate at large, called the members to order, and they immediately proceeded to organize by electing the following officers pro tem.:

President, A. S. Abernathy, of Cowlitz County; Secretary, W. Byron Daniels, of Clark County; Sergeant-at-arms, John Bryant, of Walla Walla County.

On motion of O. P. Lacy, of Walla Walla, the Chair appointed O. P. Lacy, G. H. Steward, of Clark, and C. M. Bradshaw, of Jefferson, as committee on credentials.

The convention then adjourned until Wednesday at 10 A. M., at which time the committee on credentials were directed to make their report.

At the opening of the organization of the convention, Col. C. H. Larrabee, from the Sound, in very neat and appropriate remarks, nominated Hon. Alonzo Leland, from Northern Idaho, as President pro tem. As the law allows the delegate from Idaho only a seat in the convention and the right to be heard, but not a vote, Mr. Leland declined to accept the position.

##### SECOND DAY

Convention called to order at 10 A. M., by the President pro tem., and the committee on credentials called upon to report. O. P. Lacy, Chairman of the committee, read the report, and upon motion it was

adopted as read. The Secretary then called the roll and the following delegates<sup>1</sup> answered present:

Delegates at large—W. A. George, of Walla Walla County; Edward Eldridge, Whatcom County; S. M. Gilmore, Klickitat County.

Judicial Districts—First district, S. M. Wait; Second district, B. F. Dennison; Third district, C. H. Larrabee.

Council Districts—Charles M. Bradshaw, Jefferson County; Henry B. Emery, Kitsap County; L. B. Andrews, King County; D. B. Hannah, Pierce County; Frank Henry, Thurston County; A. S. Abernathy, Cowlitz County; George H. Steward, Clark County; O. P. Lacy, Walla Walla County; J. V. O'Dell, Whitman County; Alonzo Leland, Nez Perce County, Idaho.

Mr. P. B. Johnson, Notary Public, was called upon by the President to administer the oath to the delegates. After they had been duly qualified the following permanent officers were elected *viva voce*, and sworn in:

President, A. S. Abernathy, of Cowlitz County; Secretary, W. Byron Daniels, of Clark County; Assistant Secretary, William Clark; Sergeant-at-Arms, Henry D. Cock; First Messenger, John Bryant; Second Messenger, John W. Norris, all of Walla Walla County.

The following committee, on motion, were appointed by the Chair:

Printing—Alonzo Leland, Frank Henry and Edward Eldridge.

Rules and Order—C. H. Larrabee, George H. Steward and J. V. O'Dell.

On Contingent Expenses—S. M. Wait, D. R. Hanna and O. P. Lacy.

The Printing committee was instructed to ascertain what the different printing offices of Walla Walla would charge to print the proceedings of the Convention in full, and furnish each delegate with ten, twenty-five or fifty copies of the paper containing the report. On motion of S. M. Gilmore, the members of the press were invited within the bar.

Mr. H. B. Emery, of Kitsap County, offered a resolution making 9 o'clock A. M., the hour for convening the Convention. After considerable argument, and two amendments, which were lost, the resolution was adopted.

Convention adjourned until 9 A. M. Thursday.

<sup>1</sup>The names as given here use only initials in many instances. This corresponds to the certificates of election signed by N. H. Owings, Secretary of the Territory, who attached the great seal of the Territory to each certificate. Eight of those original certificates are now in the University of Washington archives. The name of Alexander S. Abernathy is spelled without the final "e," which is correct, but does not conform to the misspelled name now in general use. The old and correct form will be allowed to stand as written in the proceedings. It will be noticed also that the reporter frequently drops the final "h" from the name of Dolph B. Hannah and sometimes the name of George H. Steward is misspelled "Stewart."

## THIRD DAY

At 9 A. M. the convention convened. President A. S. Abernathy, in the Chair—all the delegates present.

Minutes of the previous day read, corrected and approved.

Mr. Leland, from Nez Perce County, spoke in behalf of the printing committee, and stated that the committee had taken the liberty of changing the original resolution, prescribing their duties so as to make it read, "printing a synopsis of the proceedings of the convention," instead of "entire proceedings." The convention indorsed the action of the committee.

The report of the committee on Rules and Orders was received.

On motion of C. M. Bradshaw, the report was laid on the table and ordered printed.

On motion of Edward Eldridge the order of business and rules that governed the Legislative Assembly of Washington Territory at its last session, were adopted until such time as the rules and orders were printed and put in force.

C. H. Larrabee offered a resolution that a committee of five be appointed by the Chair to report the best mode of framing a constitution for the Territory—Carried. The Chair appointed C. H. Larrabee, C. M. Bradshaw, S. M. Wait, G. H. Stewart and J. V. O'Dell. Mr. Wait at first declined to serve, but was prevailed upon to allow his name to remain.

Mr. S. M. Wait, of the First Judicial District, asked and obtained leave of absence for 8 days.

J. V. O'Dell, from Whitman, moved that the Chair appoint a committee of three to fix the compensation of the officers of the convention—carried. O'Dell, Stewart and Andrews were appointed said committee.

S. M. Gilmore, from Klickitat, offered a resolution inviting the ladies of Walla Walla to be present during the deliberations of the convention. After some discussion the resolution was withdrawn.

On motion of Bradshaw the convention took a recess until 2 P. M. to give committee on printing time to report.

## AFTERNOON SESSION

The convention convened at 2 P. M.—quorum present.

Alonzo Leland submitted the report of the committee on printing and on motion it was received and acted on.

It was ordered that the *Walla Walla Union* office do the printing of the convention; and that their bid be accepted as to printing a synopsis of the proceedings.

On motion a resolution providing for the subscription of 25 copies of each of the papers was tabled.

D. B. Hanna moved to take from the table the report of the committee on Rules and Orders and act on the sections separately—carried.

After reading and amending the report it was adopted.

Convention adjourned.

FOURTH DAY—MORNING

Quorum present. Minutes read and approved.

Mr. Larrabee suggested that the Secretary in calling the roll, only note the absentees, and was so directed.

Mr. Leland of the printing committee asking instructions as to the form of printing Rules and Order, was instructed to use his own judgment.

Mr. O'Dell from committee on compensation of officers reported. The officers of the Convention were allowed the following sums per day: Chief Secretary, \$5; Assistant Secretary, \$4; Sergeant-at-Arms, \$5; two Pages, \$3 each per diem.

The committee on Rules and Order not being ready to report, the convention took a recess until 2 P. M.

AFTERNOON SESSION

Convention convened at 2 P. M.—quorum present.

Resolution appointing John W. Cochran, of Whatcom County, official short hand reporter of the convention, laid on the table. The Chair appointed a committee of three, consisting of Steward, Dennison and Andrews, to confer with Mr. Cochran and report tomorrow at 9 o'clock.

Mr. Larrabee sent up report of the committee on best mode of framing Constitution, with the following classification of articles: Preamble—1, boundaries; 2, declaration of rights; 3, distribution of powers; 4, legislative; 5, executive; 6, administrative; 7, judiciary; 8, finance; 9, eminent domain and property of the State; 10, suffrage and elections; 11, officers; 12, State institutions; 13, education; 14, corporations; 15, the rights of married women, and exemptions from forced sale 16, amendments; 17, miscellaneous; 18, schedule; 19, resolutions. The report recommended the appointment of three committees, consisting of five members each, to consider subject heads of Constitution and report thereon from time to time. On motion of Mr. Henry, the report was adopted, and the Chair took until tomorrow to classify and appoint the committees.

Mr. Steward offered a resolution handed to him by Mr. Wait,

who is on leave of absence, inviting the ministers of the Gospel to be present at the morning sessions and open the Convention with prayer—adopted.

Adjourned.

#### FIFTH DAY

Convention called to order at 9 A. M.—quorum present.

Mr. A. W. Sweeney, of the Cumberland Presbyterian church, opened the session by prayer.

The Chair appointed committees as provided by resolution:

First—B. F. Dennison, C. H. Larrabee, C. M. Bradshaw, S. M. Gilmore and J. V. O'Dell, to consider and report on the following subject heads of the Constitution: Legislative, Judiciary, Corporations, Schedule, Miscellaneous and Resolutions.

Second—W. A. George, G. H. Steward, L. B. Andrews, D. B. Hanna and H. B. Emery, on the subject heads: Executive, Administrative, Finance, State Institutions, Rights of married women, and exemptions from forced sale, Eminent domain and Property of State.

Third—Alonzo Leland, Edward Eldridge, Frank Henry, S. M. Wait and O. P. Lacy, to consider and report on the following: Preamble, Education, Boundaries, Declaration of Rights, Distribution of Powers, Suffrage and amendments.

Mr. Steward, from committee to consider the employment of a Stenographer to take down in short hand the proceedings of the Convention, made report that John W. Cochran would do such duties for ten dollars per diem, and twenty cents per folio for transcribing, the whole cost not to exceed one thousand dollars. After discussion, on motion of Mr. Bradshaw, the report was re-committed until 9 A. M.

The list of Committees on subject heads of the Constitution were ordered printed and copies furnished to delegates.

Andrews moved that the Sergeant-at-Arms procure rooms for the use of the committees—carried.

Sergeant-at-Arms reported that he had secured the Court House and the two jury rooms.

Convention took a recess until 2 P. M.

#### AFTERNOON SESSION

Quorum present—no business transacted.

Adjourned.

#### SIXTH DAY

Quorum present—Rev. H. W. Egan, of the Cumberland Presbyterian Church, offered prayer.

Minutes of preceding day approved as read.



Judge Dennison presented a petition signed by about 600 persons, male and female, bringing before the convention the subject of the right of women to vote.<sup>2</sup>

On motion of Mr. Larrabee it was referred to Committee No. 3.

On motion of Mr. Bradshaw, the Committee was ordered to have the petition printed in full.

Mr. Steward presented a request on the part of the ladies of Walla Walla County, asking that Mrs. A. J. Duniway be allowed to appear before the convention and present a memorial touching female suffrage.

Moved by Steward to receive the request and that tomorrow at 10 o'clock be the time for her to address the Convention—carried. Ayes, 7; noes, 6.

Mr. George moved that a committee of three be appointed to wait upon Mrs. Duniway and inform her of the action of the Convention—carried. The Chair selected Messrs. George, Eldridge and Steward.

Mr. Steward, from the committee to whom was referred the matter of engaging a stenographer, reported that the committee recommended that he be not appointed, the conclusion of the committee being that the Convention had no power to appoint such an officer.

Moved by Mr. Bradshaw that the report be laid on the table subject to the order of the Convention—carried.

Mr. Hanna moved that the Sergeant-at-Arms provide a seat for Mrs. Duniway, and that she be declared a member of the Convention.

On motion of Mr. Bradshaw it was rejected.

Mr. Henry gave notice that he would offer an amendment tomorrow effecting Rule Six.

Mr. Larrabee called for the report of the committee on Contingent Expenses, as to committee room. O. P. Lacy stated that they had secured proper rooms. Also asked that each delegate hand in his bill for sums due them per diem, and for mileage.

Judge Dennison offered a resolution that no person be debarred from following any occupation, business or profession on account of

<sup>2</sup> The original petition is in the archives of the University of Washington. It briefly recites the rights of citizenship and concludes: "Therefore we, the undersigned citizens of the United States, and of the Territory of Washington, most respectfully petition your Honorable Body to frame a true Republican Constitution by leaving out the word 'male' and guaranteeing to all citizens irrespective of sex the exercise of the right of franchise." In some cases the ink was poor and the signatures are faded, but most of them, even pencil signatures, are still decipherable. Among the names are the following: Job Carr, W. H. Fife, S. C. Hyde, David Lister, Eliza Lister, D. A. Neely, R. S. Greene, A. Atwood, N. H. Owings, H. G. Struve, T. F. McElroy, Clarke Biles, James Longmire, Elwood Evans, Polly Roundtree, R. H. Lansdale, E. V. Cosper, C. B. Bagley, T. C. Van Epps, L. P. Venen, Isaac Dofflemeyer, Isaac Chilberg, Joseph Chilberg, C. H. Hale, G. A. Barnes, T. M. Reed and W. O. Thompson.

sex or color, or any right abridged thereby, and asked it referred to Committee No. 3. So ordered.

Mr. Larrabee sent up several numbered sections on Rights of married women, and Exemptions from forced sale, and moved to refer them to Committee No. 2. So referred.

Frank Henry moved that the Sergeant-at-Arms provide each delegate with two copies of all printed matter that may be ordered. Carried.

Moved by Mr. Hanna that Mr. Andrews be elected to the committee on Contingent Expenses.

Mr. Bradshaw interposed a motion to adjourn, and the Convention adjourned until tomorrow at 9 A. M.

#### SEVENTH DAY—MORNING

Quorum present—Rev. E. C. Warren, of the M. E. Church, opened with prayer.

Journal approved as read.

Mr. Larrabee moved that the portion of the report of the printing committee referring to the subscription to newspapers, be taken from the table and acted on—carried.

Moved by Mr. Larrabee as a substitute for the original resolution, that each delegate be allowed to subscribe for 50 copies of any one of the newspapers printing a synopsis of the proceedings, and the Convention pay for the same, also that the Sergeant-at-Arms provide the Delegates with sufficient quantity of postal envelopes, and that the Convention order the sum of twenty-five dollars to be appropriated to defray the expenses thereof—carried. Ayes, 10; noes, 4.

Mr. George from the committee to wait upon Mrs. Duniway reported.

The Convention took a recess for half an hour, as Mrs. Duniway had not made her appearance.

During the recess the hall soon filled with ladies of Walla Walla and vicinity, and by their smiling faces, light, gay laughter, bewitching and winning looks "lent a softness" to the sober and sage aspect of the assemblage of a moment before. Above the hum and buzz of many voices could be heard the sonorous tones and vigorous laughter of the "Peer of female kind." The interest taken in this Territory on the right of women to vote, was manifest by the number of ladies turning out to witness the presentation of a memorial by their champion.

During the recess many of the delegates were button-holed and talked to with much earnestness.

## MRS. DUNIWAY

At 10½ o'clock the Chair called the Convention to order, and our gallant and venerable delegate, Mr. W. A. George, escorted Madame Duniway to the front and introduced her to the Convention. The reading of the memorial by her ladyship occupied about half an hour. It was sweetly perfumed with midnight oil. Among other things, she said: "I come before you at this auspicious hour on behalf of a large body of the unrepresented citizens of your embryo commonwealth, and at their instigation and invitation to ask you in their name, for reasons which they and I are prepared to substantiate, to so honor your present important public work by recognizing their inalienable rights and interests that the name of Washington, first in war, first in peace and first in the hearts of his countrymen, may also be the first in the grand galaxy of States to wheel majestically into her proper orbit, in harmony with the Declaration of Independence and the Constitution of the United States."

"My constituents ask me to call your attention, and that of this honorable deliberative body to the unnatural grievances of men and women as set forth in their original bill of rights, that you may see as they do how exactly parallel the complaints of women run today with those of men a hundred years ago. My constituents complain, and I aver with good reason, that their inalienable equal rights to life, liberty and the pursuit of happiness is yet circumscribed by special legislation, which denies to them equal immunities and privileges with another class, and refuse thus to grant to them the equal protection of the laws. They bid me say that they especially deplore the growing domestic insurrection among the wives of this soon to be sovereign State, also divine the prime cause of this insurrection. You, gentlemen, would be equally rebellious under equal political and financial restraint, else you would be unworthy of your boasted manhood. We regard the home as paramount to all else, and the domestic hearthstone as the sacred guardian of human liberties. But we have learned that, first of all, there must be a home to keep, and a united head to keep it." (A writer once said 'Home is the place for women, and a home without a woman is no home at all.' A woman clad in the breeches of man is not the woman to make home happy. It requires the tender care, and gentle instincts of a refined woman to successfully constitute a united head to keep a home.") We have often seen the hard earned home swept from us by, and through the unwarrantable jurisdiction exercised over us by the authority of sex. That we find domestic rebellion and insurrection constantly on the increase; and it is not possible for us or you, to cure the effect, until the cause ceases.

Oppression is, and ever has been, the mother of discontent. My constituents do not come to you asking privilege or power to usurp political jurisdiction over you. They would not if they could abridge your immunities or trample upon your inalienable rights. They will do you good and not evil. Do your duty. The eyes of the whole earth are upon you; you are writing history; see that your individual page is written so as to immortalize your name." Mrs. Duniway announced in conclusion that she had prepared a speech and would deliver it on Wednesday evening, at the Unitarian Church, and invited all to be present.

Mr. Gilmore moved that the memorial be referred to Committee No. 3—so referred.<sup>3</sup>

On motion of Mr. Larrabee the Convention adjourned.

After the adjournment your reporter was so fortunate as to overhear a conversation, in which one of the "constituents" remarked: "I've spotted two of them. That sage from Island, clad in robes of spotless purity, with the white eyebrow on his upper lip, and that good looking man with the white vest, are opposed to our cause, and I am going to tell Mrs. Duniway so she can give them fits." Mr. Larrabee and Mr. Steward say they know nothing about it.

#### EIGHTH DAY

Quorum present. Rev. Thomas Boyd, pastor of the Presbyterian Church at Waitsburg, opened with prayer.

Journal approved as read.

Mr. Leland moved that the chairman of the three Committees be authorized to hand their reports as completed to the Printing Committee, in order that they may be printed before submitting them to the Convention—carried.

Mr. Dennison offered resolutions on the following subject heads: Common carriers, referred to Committee No. 1.

<sup>3</sup> The original of this interesting memorial is written in a large bold hand and dated at Walla Walla June 18, 1878. The reporter did not use one-third of the document, but his extracts were well copied and give the main thought. His little gossip thrown into the proceedings at the end of the day's record is indicative of the newspaper's attitude. In that same issue the leading editorial is devoted to woman suffrage in which appears this sentence: "There can be no doubt of the statement that only a small proportion of the men and women who signed the woman suffrage petition did so deliberately and from an abiding conviction that the measure proposed was one which was a necessity to those most interested, the women, a measure which would confer on them more privileges, more enjoyments, would tend to elevate, improve and protect woman." The editorial concluded as follows: "The Union is not the repository of the views of the members of the convention upon this or any other subject, but it takes the liberty of suggesting to the convention that it frame a clause of the Constitution embodying the wishes of the petitioners, and submit it to the people to be voted upon separately. By so doing they will bring the matter directly before the people and require them to decide whether the State of Washington will inaugurate 'female suffrage.'"

Whether or not the editor knew it, his suggestion to submit a separate article to the voters was provided for in section seven of the law of 1877 calling the convention into being. As will be seen, at the close of the proceedings, that plan was followed and the separate article was rejected by the voters. Exactly the same experience was encountered eleven years later when the present Constitution was adopted.

Embodying the common law, the civil and admiralty laws, into the laws of this State, when applicable and not inconsistent, &c.—referred to Committee No. 1.

On navigable waters—referred to No. 2.

Rights of husband and wife—referred to No. 2.

Mr. Hanna offered resolution on swamp land, and was referred to Committee No. 2.

The motion to add Mr. Andrews to Committee on Contingent Expenses was carried.

Mr. Henry moved to amend Rule No. 6, in accordance with his notice given the previous day, and after discussion, the motion was withdrawn.<sup>4</sup>

Mr. Larrabee moved that the Convention adjourn until 2 P. M. tomorrow, so as to give committees time to report.

Adjourned.

NINTH DAY

Convened at 2 P. M.—quorum present.

Prayer by Rev. C. R. Shields, of the Presbyterian Church.

Journal read and approved.

Mr. Leland from Committee No. 3 reported on the subject heads, Preamble, Boundaries and Distribution of Powers.

On motion of O'Dell the subjects reported were received, laid on the table and ordered printed.

Mr. O'Dell moved to adjourn until 2 P. M. tomorrow to give time to committees to make their reports—adopted.

TENTH DAY

Convention convened at 2½ P. M.—quorum present.

The report of the Committee on Preamble, Distribution of Powers and Boundaries was made special order for Saturday at 9 A. M.

The Convention returned thanks to Columbia Lodge No. 26, A. F. & A. M., for an invitation to attend the celebration of St. John's Day at Dayton, but were compelled to decline it.

Adjourned.

ELEVENTH DAY—JUNE 22ND

Convention met at 9 A. M.—quorum present.

Journal read and approved.

On motion of Mr. Larrabee the office of Second Messenger was declared vacant.

<sup>4</sup> Rule six, which Mr. Henry sought to amend, was as follows: "No member shall speak more than twice on the same question, nor more than thirty minutes each time, without leave, nor more than once until every other member rising to speak shall have spoken: and he shall confine himself to the question under debate, and avoid personalities."

On motion Arthur Sharpstein was nominated and elected Messenger, by acclamation.

Report of Committee No. 3, respecting Preamble, Distribution of Powers, and Boundary, was taken from the table, and read the first and second times.

On motion of Mr. Lacy the Convention resolved itself into committee of the whole to consider the article entitled "Preamble," whereupon the President called Mr. George to the Chair.

Having considered the article, "Preamble" the committee rose, the President resumed the Chair, and the Chairman of the Committee reported.

On motion of Mr. Bradshaw the Preamble as amended by the committee of the whole was ordered engrossed for its third reading.

On motion of Mr. Larrabee, the Convention went into committee of the whole to consider "Distribution of Powers, and Boundaries"—Mr. Bradshaw in the Chair.

On motion of Mr. Larrabee the Committee rose and reported progress.

Mr. Eldridge moved that the amendments reported by the Committee be adopted, and that the article be ordered engrossed for its third reading—carried.

On motion of Mr. Larrabee the Committee was granted leave to sit again.

The Convention took a recess until 2 P. M.

#### AFTERNOON SESSION

Convention reassembled at 2 P. M.

On motion of Mr. Gilmore the Convention resolved itself into committee of the whole on the article entitled "Boundaries"—Mr. Bradshaw in the Chair.

At 5 o'clock P. M., Mr. Steward moved that the Committee rise, report progress, and ask leave to sit again—carried. Whereupon the Committee rose, the President resumed the Chair, and the Chairman of the Committee reported.

On motion of Mr. Dennison the report was adopted.

On motion of Mr. O'Dell the Convention adjourned.

#### TWELFTH DAY—JUNE 24TH

Convention convened at 9 A. M.—quorum present. Prayer by Rev. Mr. Boyd.

Journal read and approved.

Mr. Leland from Committee No. 3 reported the article entitled "Suffrage and Elections."

On motion of Mr. O'Dell the article was tabled and ordered printed.

Mr. Emery offered resolution appointing a committee of three on Engrossed Articles—adopted.

The President appointed Messrs. Emery, Steward and Henry.

On motion of Mr. Hanna the Convention resolved itself into a committee of the whole on the article entitled "Boundaries." Mr. Bradshaw in the Chair.

The Committee continued in session until 12 M., when on motion of Mr. O'Dell the Committee rose, the President resumed the Chair, and the Chairman of the Committee submitted report.

On motion of Mr. Eldridge leave was granted the Committee to sit again.

The Convention took a recess until 2 P. M.

AFTERNOON SESSION

Convention convened at 2 P. M.

Mr. Hanna submitted the following resolution:

*Resolved*, That Hon. Alonzo Leland, who represents the counties of Idaho, Shoshone and Nez Perce in Idaho Territory, is entitled by virtue of his election by the people of those counties to the privileges of the floor of this Convention, with the privilege of voting on all questions." <sup>5</sup>

On motion of Mr. Lacy the resolution was referred to a special committee of three consisting of Messrs. Dennison, O'Dell and Eldridge.

On motion of Mr. Lacy the Convention went into committee of the whole, and considered the article on "Boundaries"—Mr. Bradshaw in the Chair.

After consideration of the article the Committee rose, whereupon the President resumed the Chair, and the Chairman of Committee reported.

On motion of Mr. Lacy the amendments reported by the committee of the whole were adopted.

Mr. Larrabee moved to amend the report on "Boundaries" "so as to include Northern Idaho within the limits of Washington, with the proviso that the matter be left entirely with Congress of the United States; and if it be assented and agreed to by Congress, then the same shall be and forever remain obligatory on the State of Washington."

After considerable debate the motion was lost. Ayes, Messrs. Bradshaw, Larrabee and Mr. President. Noes—Messrs. Andrews,

<sup>5</sup> See the proceedings for the fourteenth day where this resolution was debated at length and the resolution encountered defeat.

Dennison, Eldridge, Emery, Gilmore, Henry, Hanna, Lacy, O'Dell, Steward and Wait. Absent, Mr. George.

Previous to the announcement of the vote on the above motion, Messrs. Larrabee and Bradshaw presented their protest in writing against the action of the convention in refusing to amend the article on "Boundaries," as proposed by Mr. Larrabee's motion.

Mr. Larrabee moved that this protest be entered in the journal. Ayes—Bradshaw, Eldridge and Larrabee. Noes—Andrews, Dennison, Emery, Gilmore, Henry, Hanna, Lacy, O'Dell, Steward, Wait and Mr. President. Absent, Mr. George—motion lost.

On motion of Mr. Lacy, the article of Boundaries was ordered engrossed for its third reading.

Mr. Lacy, from Committee on Contingent Expenses, reported. The report shows that Messrs. Eversz & Able have furnished the Convention with furniture for the hall, to the value of \$188, and that at the close of the Convention they propose to take the same back, and accept the sum of \$50 for the rent of the same.

Mr. Hanna moved to accept the proposition—carried.

On motion of Mr. Lacy the report of the committee was adopted, and the President instructed to issue certificates for the various sums therein specified.

Adjourned.

THIRTEENTH DAY—JUNE 25TH

Convention met at 9 A. M.—quorum present.

Journal read and approved.

Mr. Dennison from Committee No. 1 reported on the "Legislative Article."

On motion of Mr. Larrabee the report was laid on the table and ordered printed.

Mr. Steward from Committee No. 2 reported "Executive Article," which was tabled and ordered printed.

Mr. Larrabee moved that the article on Preamble be re-committed to Committee No. 3—adopted.

Mr. Eldridge gave notice that tomorrow he would move to amend Rule Eighteen.<sup>6</sup>

On motion of Mr. Lacy the Convention went into committee of the whole to consider the article Amendments.

Mr. Eldridge, from Whatcom County, called to the Chair.

Mr. Bradshaw offered two additional sections to the article, which were adopted.

<sup>6</sup> The manuscript record shows that Mr. Eldridge wished to make it possible to amend a proposed article, after it had been engrossed, by a "two-thirds" instead of "unanimous" vote, as provided in rule eighteen.



On motion of Mr. Larrabee the Committee rose and reported.

On motion the amendments recommended by the Committee were adopted.

On motion of Mr. Henry the article was engrossed for third reading.

The Convention went into committee of the whole to consider the article Declaration of Rights.

Mr. Dennison moved that the title of the article be changed from "Declaration of Rights" to "Bill of Rights."

Messrs. Larrabee and Steward objected strenuously, as the title "Bill of Rights" savored too much of Johnnie Bull. Declaration of rights is purely American, and as we ought to be by the right of conquest intensely Americanized, we should retain our town title head—motion to change was lost.

Mr. Dennison moved to strike out the 2d section of the article which read as follows: "That the people of this State have the exclusive right of governing themselves, as a free, sovereign and independent State; of altering or abolishing their form of government; and they may, do, and forever hereafter shall, exercise and enjoy every power, jurisdiction and right which is not now, or may not hereafter, be by them expressly delegated to the United States of America in Congress assembled."

The motion was made on the ground that it embodies the essence of secession; that it held no power superior to that of a State, except that power expressly delegated by Congress.

Mr. Larrabee moved to amend by striking out and substituting another section.

On motion of Mr. Steward the committee of the whole rose and reported progress.

On motion of Mr. Andrews, leave to set <sup>7</sup> again to consider same subject was granted.

Convention took a recess until 2 P. M.

AFTERNOON SESSION

Called to order at two o'clock P. M.—quorum present.

On motion the Convention again resolved itself into committee of the whole, to further consider "Declaration of Rights"—with Mr. Eldridge in the Chair.

During the deliberations on the several sections of this article, quite a spirited argument ensued, in which the subject, "Church and State," was thoroughly and very ably discussed.

<sup>7</sup> This spelling of the word at several places in the record is only an innocent manifestation of the reporter's rural subconsciousness.

On "Slander and Libel," Messrs. Leland, Dennison and Larrabee, indulged in an extended legal argument, which was quite edifying.

It was suggested by Mr. Dennison that he should strenuously oppose "Capital Punishment."

At 5 o'clock P. M., after constant and laborious work, Mr. Dennison moved that the committee of the whole rise, and the Chair report progress—adopted.

Chairman reported that their work was not finished, and asked leave to set again—granted.

Adjourned.

FOURTEENTH DAY—JUNE 27TH<sup>8</sup>

Quorum present. Journal read and approved.

Mr. Steward from Committee No. 2 reported two articles entitled respectively, "Administrative" and "Officers," which on his motion were tabled and ordered printed.

Mr. Dennison from the special committee to whom was referred the resolution allowing Alonzo Leland from Shoshone, Nez Perce and Idaho Counties, the right to vote on questions arising in the convention, reported as follows:

"We find that the law creating the convention to frame a constitution for a state, among other things provides as follows:

"That the Counties of Idaho, Shoshone and Nez Perce, in the Territory of Idaho, are requested to elect a delegate to said convention, who shall be a member of said convention, with the privilege of the floor, but shall not be entitled to a vote."

"We are of the opinion that by said law, it was in no wise obligatory on the people of said counties to elect said delegate unless they chose so to do. That, if an act of the Legislative Assembly of Washington is of any legal force, the limits to privileges of the delegate from Idaho are fixed, and we are of the opinion that the power of this convention to allow said delegate any further, or larger powers than that prescribed by law, admits of grave doubts, and therefore report the said resolution back to the convention without any recommendation."

It was moved by Mr. Henry that the report be laid on the table and made the special order at 10 o'clock tomorrow.

Mr. Bradshaw raised a question of order on the ground that the original resolution on the above subject and all subsequent proceedings were in contravention of statute; that it was in violation of the law under which the convention is working; that the whole matter is irregular.

<sup>8</sup> This is a misprint for 26th, as may be seen from the entry of the next day.

Mr. Hanna held that the Legislature stepped out of its jurisdiction when it enacted that the delegate from Idaho could not vote.

Mr. Henry held that it was an insult to the committee to raise a point of order on their report.

Mr. Eldridge spoke briefly. He repudiated the section read by Mr. Bradshaw from Cushing's Manual, as the convention was not guided by Cushing's Manual, but Jefferson's.

The Chair decided that the point of order was not well taken.

On the motion to "make the report a special order for tomorrow," Mr. Larrabee called for the ayes and noes, and they were ordered with the following result: Ayes, Eldridge, Emery, Gilmore, Henry, Hanna and Wait. Noes—Andrews, Bradshaw, Dennison, Larrabee, Lacy, O'Dell, Steward and Mr. President. Absent, Mr. George.

Before taking the vote Mr. Leland presented his claim in plain, distinct and favorable terms. He doubted the power of the Legislature to prevent the delegate from Idaho to vote, as the whole matter of election of delegates, and the formation of the convention was but a creature of the people, emanating from the people of Washington and Idaho. If the delegate from Idaho is not allowed the privilege of voting, how are the people of that section of country represented? He spoke of the intent and meaning of the several acts of the Legislature in forming the convention.

The Legislature of Washington invited the people of North Idaho to choose a delegate and send him to this convention. For what purpose? If it was not for the purpose of including these counties within the boundaries of the new State, and giving their delegate a right as a full delegate in making the constitution, the same as other delegates, it must have been for the purpose of getting his counsel advisory upon the questions. How shall it be framed, and what kind of a constitution the people of Washington should frame confined to the boundaries of Washington alone? If it was the intention of the Legislature to do this latter and go no farther, it would have been more wise to have invited in Judge Deady, or some able man in California, to have been such advisor to the convention, and appropriated the \$200 for the payment of his services. It would be saying that in the opinion of the Legislature, the delegates to be elected by the people of Washington were likely to be incompetent to the task of making a constitution, and therefore the Legislature must provide a delegate from the outside to advise them how to proceed, and make provision for his pay.

If the Convention refuses to allow the delegate to vote, you virtually preclude Idaho from coming in with Washington, except by the greatest hazard of an act of Congress.

The Legislature had no authority to prescribe the power of the several delegates; it did not care to dictate the power of the delegates from Washington or Idaho. They invited a delegate from Idaho, and left his privileges and powers to be prescribed by the Convention. Is this body bound by the act of the Legislature, if it was their intent and motive to exclude Idaho from voting? The question submitted to the people, "Will you have a Convention?" was answered affirmatively by the people, and as it is the creature of the people, there is no power higher than the *will* of the people. It was the will of the people that Northern Idaho should have a delegate, and it was equally their will that he should vote.

Mr. Bradshaw answered: We, the people of Washington Territory, are desirous of getting into the Union, and do not want to bind ourselves indissolubly to North Idaho, for if it is not possible to get in with Idaho, we want to get in without her. The people from the west side of the Cascade Mountains did not send delegates to the Convention for them to stand or fall with Idaho. They sent them here to get Washington into the Union anyway.

Mr. Henry made quite a philosophical speech. Beginning with the elementary principles of law, he gradually reached, by fine argument, and good philosophy, the question in issue and his reasoning seemed convincing.

A synopsis of Mr. Henry's speech would not do him justice, as it was fraught from beginning to end with all that was pertinent to the question.

#### AFTERNOON SESSION

Larrabee spoke on the question in his usual forcible style.

This convention is not a revolutionary movement outside of law; not a mob of men! We are either working under law, or without and above it. We have come here under a contract with the people under the law. I have come here under a contract to perform my duties for \$5 per day. Would it become me, and would it be legal, for me to ask that this contract be modified so I could get \$10 per day?

The delegate from Northern Idaho comes here under a contract to perform certain duties and to be restricted in others. Shall he have that contract changed so as to have his duties modified and his privileges extended? I think not.

We are here to frame a form of constitution to be submitted to the people of Washington Territory for their ratification or their rejection. We have no power to submit it to Oregon, to Montana, to Idaho or to any other State or Territory except that of Washington.

If this resolution is adopted, the result will be that the \$200 to

be appropriated to the delegate from Idaho will be wiped out, and such delegate placed on equal footing with all other delegates, and be entitled to \$5 per day and his expenses paid.

The law under which we have any power at all, absolutely prohibits the gentleman from Idaho from voting. Can we over-ride law, and give it to him? Can we repeal law? The Legislature had the power to request the people of Northern Idaho to send a representative, but not the power to delegate full privileges equal to other delegates, for he is not a citizen of the Territory of Washington.

The Legislature has power to do all things not prohibited by the Constitution and the laws of Congress. That body has called the convention and defined its powers.

Has the convention general legislative power? If it has there is nothing to restrain it from running riot like the thirty tyrants at Athens.

My constituents have never intended that we must bind ourselves, and "sink or swim," with the three counties of Northern Idaho. My constituents never hedged me with any such restriction, when they sent me here. We mean to found the State of Washington whether Northern Idaho is given us by Congress or not. We extend our arms to that people and ask them to come, if Congress will let them. They are indissolubly bound to us by the strongest ties of material interest. Nature has thrown a boundary around us which only needs to be made a political boundary, to make us one people. In the effort to pronounce that result, let us not violate the law which called this body into existence.

Congress alone has power to provide the means by which the constitution can be submitted to the people of Idaho, and I trust no further effort will be made to extend the power of this convention, so as to have the resemblance even of usurpation of our sister Territory.

Mr. Dennison stated that his conclusions would be the same as those of the gentleman from Island. He would not admit the premises of that delegate, but his result would be the same.

Mr. O'Dell—The act from which we derive the authority to sit as a Convention, prescribes the qualification of delegates. That act says that each delegate must be a qualified elector, and the delegate from Northern Idaho has not these qualifications.

Mr. Leland closed the argument by ably answering the points advanced by the delegates opposed to him.

The question called for, the vote stood: Ayes—Henry and Hanna. Noes—Andrews, Bradshaw, Dennison, Eldridge, Emery, Gilmore,

Larrabee, Lacy, O'Dell, Stewart, Wait and Mr. President. Absent—George.<sup>9</sup>

President read a communication from J. W. Sprague, General Superintendent of the O. S. N. Company, asking that the Convention make the improvement of Snake River a special subject of memorial to Congress.<sup>10</sup>

Mr. Larrabee moved to receive the communication and lay it on the table for future consideration.

Mr. Eldridge offered his resolution, under notice given yesterday, to amend Rule 6.<sup>11</sup>

On motion of Mr. Bradshaw the resolution was tabled.  
Adjourned.

FIFTEENTH DAY—JUNE 27TH

Quorum present. Journal read and approved.

On motion of Mr. O'Dell the communication from General J. W. Sprague, General Superintendent of the O. S. N. Co., was taken from the table.

On motion, a committee of three was appointed by the Chair to draft a memorial to Congress praying for an appropriation for the improvement of Snake River. Messrs. O'Dell, Henry and Bradshaw were selected as such committee.

A resolution accepting the invitation extended to the convention by the O. S. N. Co. to take an excursion up Snake River was laid on the table.

On motion of Mr. Andrews the convention resolved itself into a committee of the whole on the article entitled "Declaration of Rights" with Eldridge in the Chair.

At 12 o'clock on motion of Mr. Larrabee, the committee rose, reported progress, and granted leave to sit again.

Convention adjourned until 2 P. M.

<sup>9</sup> The Idaho delegate remained in the convention on the former terms and the *Walla Walla Union* editorially supported the main idea of including North Idaho and hinting at a political angle of the proposal as follows: "A political consideration might be urged in this matter. Congress bids fair to be Democratic for years. The counties of Idaho, Shoshone and Nez Perce, at the last election, cast 458 Democratic and 285 Republican votes. Add this Democratic vote in this Territory and it would come so near equalizing things that a Democratic Congress would have little to fear by our admission into the Union."

<sup>10</sup> The original letter in the handwriting of General J. W. Sprague is in the archives of the University of Washington. With the letter he had transmitted a copy of Colonel John M. Wilson's report on the improvement of the rivers in Washington. It is interesting to mention that John M. Wilson was the first cadet sent to the Military Academy at West Point from the Territory of Washington. He later rose to be Chief of Engineers, United States Army. In his letter to the convention, General Sprague offered to take the delegates on a tour of inspection of Snake River, and he concludes with: "Our telegraph line is at your service." General Sprague was later prominent in the work of the Northern Pacific Railroad.

<sup>11</sup> The reporter has made an error. It was Mr. Henry who had sought in vain to amend rule six and the notice given by Mr. Eldridge was to amend rule eighteen. See footnotes four and six.

AFTERNOON SESSION

Convention reassembled at 2 o'clock P. M. and on motion of O'Dell the convention resolved itself into a committee of the whole on the article entitled "Declaration of Rights," with Mr. Eldridge in the Chair.

After deliberating the entire afternoon on the said article, the committee rose, the President resumed the Chair, and Mr. Eldridge submitted report.

Adjourned.

SIXTEENTH DAY

Quorum present. Journal read and approved.

Convention resolved itself into committee of the whole to further consider and deliberate upon the article entitled "Declaration of Rights."

Mr. Dennison offered a new section giving to women the right to hold certain offices. After discussion it was withdrawn and reserved for further deliberation, under the article of "Suffrage."

At 12 M. the committee rose, and was granted leave to sit again. Adjourned until 2 P. M.

AFTERNOON SESSION

Convention met and went into the committee of the whole and resumed consideration of the amendments of "Declaration of Rights."

At 3 P. M., on motion of Mr. Andrews, the committee rose and reported.

On motion of Mr. Eldridge the report was adopted and tabled.

On motion of Mr. Lacy the article entitled "Declaration of Rights" as amended by the committee of the whole was ordered printed.

On motion of Mr. Lacy the Rules were suspended, and the article entitled "Executive" was taken up.

The convention then resolved itself into a committee of the whole on this article, and as we go to press the committee is still at work.

SEVENTEENTH DAY—JUNE 29TH

Convention met at 2 o'clock P. M., pursuant to adjournment—quorum present.

Journal read and approved.

Mr. Henry in his happy style, presented the Convention with a box of pickled clams, which was sent to him from the Sound, for that purpose.

Mr. Larrabee moved that the President take the clams in charge, and report upon the contents of the box, to the Convention.

Mr. O'Dell moved to amend that the President spread them upon the table.

The amendment to the amendment by Mr. Henry, was that the clams be equally divided among the delegates.

Mr. Henry stated that as there was just two gallons, the delegates could take one pint each, and the officers could divide the box. The ayes and noes not being called for the President took the clams.

Mr. Dennison offered the following Separate Articles to the Constitution, and moved that they be referred to Committee No. 3.

Separate Articles—At the time of the submission of this Constitution to the electors of the Territory, for their adoption or rejection, there will be submitted as Separate Articles the following:

No. 1—"No person who is otherwise than <sup>12</sup> a qualified elector shall be denied the right to vote in this State, on account of 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."

The Articles also prescribe the manner in which the people shall vote upon them.

Mr. Larrabee moved that these Articles be tabled and ordered printed—carried.

On motion of Mr. Lacy the Convention went into Committee of the whole upon the article entitled "Legislative."

Adjourned.

<sup>12</sup> The word "than" used here by the reporter is an error. It does not appear in the manuscript record now in the archives of the University of Washington, nor did the word appear in the printed document submitted to the people.

[To be continued]