

Washington's first constitution, 1878

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WASHINGTON'S
FIRST CONSTITUTION, 1878

AND

PROCEEDINGS OF THE CONVENTION

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INTRODUCTION

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.

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1861
2.10
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.

1861
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

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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 get-

ting 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 delegates¹ answered present:

¹ 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

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.

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. Abernethy is misspelled "Abernathy" throughout these proceedings. The name of Clarke County 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.²

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

² 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 Doffmeyer, 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.³

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.

³ 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.⁴

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.

⁴Rule 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." ⁵

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,

⁵ 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 \$138, 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.⁶

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.

⁶ 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 set⁷ 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.

⁷ 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 27TH⁸

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.

⁸ 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.⁹

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.¹⁰

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 6.¹¹

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.

⁹ 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."

¹⁰ 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.

¹¹ 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 ¹² a qualified elector shall be denied the right to vote in this State, on account of sex; any thing 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.

EIGHTEENTH DAY—JULY 1ST.

Convention met at 9 A. M. Quorum present.

Journal read and approved.

On motion of Mr. Andrews the Convention went into Committee of the whole on the article entitled "Legislative," with Mr. Steward in the Chair.

At noon the Committee rose, and Mr. President resumed the Chair, and the Chairman reported that the Committee had not concluded its consideration of the article and asked leave to sit again, which on motion of Mr. Steward was granted.

On motion of Mr. Hannah the Convention took a recess until 2 o'clock P. M.

AFTERNOON SESSION

The Convention reassembled at 2 o'clock P. M.

¹² 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.

The President presented to the Convention a communication from Wm. H. Bender, Chairman of the Walla Walla 4th of July Committee, inviting the members of the Convention to participate in the festivities on that occasion.¹⁸

On motion of Mr. Gilmore the invitation was accepted.

On motion of Mr. O'Dell, the Convention resolved itself into Committee of the whole, on the "Legislative" article—Mr. Steward in the Chair.

At half past four o'clock P. M., on motion of Mr. O'Dell the Committee rose, the President resumed the Chair, and the Chairman of the Committee submitted a report.

Mr. Steward moved that the report be adopted.

Mr. Eldridge moved to amend the motion to adopt, so that the amendments proposed by Committee of the whole may be acted on separately by the Convention—carried.

Adjourned.

NINETEENTH DAY—JULY 2ND

Convention met—quorum present.

Rev. H. W. Eagan offered prayer.

Journal read and approved.

Mr. George from Committee No. 2, reported the article entitled "Finance."

On motion the report was tabled and ordered printed.

Mr. Dennison from Committee No. 1, reported the article on "Corporations"—tabled and ordered printed.

The amendments to the "Legislative" article was taken up and acted on separately.

Accepting the amendment fixing the pay of the members of the Legislature, striking out "\$4 per day and inserting \$3 per day," the vote stood: Ayes—Andrews, Bradshaw, Dennison, Emery, Henry, Hanna, Larrabee, Lacy and Wait. Noes—Eldridge, Gilmore, George, O'Dell, Steward and Mr. President.

After further amending the article it was adopted and ordered engrossed for its third reading.

Before engrossing for third reading Mr. Emery moved to strike out the following from Sec. 8, which provoked considerable argument.

"In all elections of Representatives, after such division, each quali-

¹⁸ The invitation was written on the official letter-head of the City of Walla Walla, showing Miles C. Moore as Mayor and C. E. Whitney as City Auditor and Clerk. "We regret," writes Mr. Bender, "to say we are unable to procure carriages for your Honorable Body, they having all been engaged." The proceedings later show that the convention simply adjourned over for the celebration and resumed work as usual on July 5th. It is interesting to recall that when the constitution was framed in 1889, the convention assembled for organization on July 4th.

fied elector may cast as many votes for one candidate as there are Representatives to be elected in the district, or he may distribute the same, or equal parts thereof among the candidates as he shall see fit; and the candidates highest in votes shall be elected."

The vote to strike out stood as follows: Ayes—Bradshaw, Emery, George and Lacy. Noes—Andrews, Dennison, Eldridge, Gilmore, Henry, Hanna, Larrabee, O'Dell, Steward, Wait and Mr. President.

The vote upon Mr. Eldridge's amendment inserting the following in Section 8:

"But the Legislature may at any time after the year 1890, adopt the preferential system in the election of Representatives, and enact such laws as may be necessary to carry it into effect." The vote resulted as follows:

Ayes—Andrews, Dennison, Eldridge, Gilmore, Henry, Hanna, Larrabee, Lacy, O'Dell, Wait and Mr. President. Noes—Bradshaw, Emery, George and Steward.

At half past eleven o'clock, Mr. Steward and Mr. Dennison moved a call of the Convention, whereupon the burley Sergeant at Arms muzzled one of the consumptives and brought him in.

During the lull in the proceedings, Mr. Bradshaw asked the following for information: "As the gentleman from Idaho has the right of the floor, whether or not, he has the further right to take the floor off with him?—decided that he had.

After adopting the amendments as made, the Convention took a recess until half past one P. M.

AFTERNOON SESSION

At half past one o'clock p. m., the Convention reassembled.

Quorum present.

The President presented the following communication:

To the President of the Constitutional Convention—Dear Sir:—"Being informed that the members of the Constitutional Convention contemplate a pleasure trip to Lewiston. The Walla Walla & Columbia River Railroad Company hereby tender to the members of said Convention, a free pass over its road from Walla Walla to Wallula and return. If you accept please notify us to that effect. Yours respectfully,

W. W. & C. R. R. Co.,
Per E. F. BAKER, Agent."

On motion the communication was received and the President instructed to notify the President of the Railroad Company that the Convention would accept the invitation at the close of the Convention.

On motion of Mr. Hanna the convention resolved itself into a Committee of the whole, on the article entitled "Administrative," with Mr. Henry in the Chair.

At half-past three, on motion of Larrabee, the Committee of the whole rose and reported back to the Convention its report.

On motion the article as amended, was adopted, and ordered engrossed for its third reading.

On motion of Mr. Larrabee the Convention went into a Committee of the whole on the article entitled "Officers," with Mr. Eldridge in the Chair.

As we go to press the Committee is still deliberating on this article.

TWENTIETH DAY—JULY 3RD

Quorum present.

Prayer by Rev. Mr. Boyd.

Journal read and approved.

Mr. Dennison from Committee No. 1, reported the article entitled "Judiciary"—the article was laid on the table, and ordered printed.

Mr. O'Dell sent up a resolution, tendering thanks to the people of Colfax, for their generous offer to furnish transportation, free of charge, to the delegates of the Convention, from Colfax to Almota, on their proposed pleasure trip to Lewiston.¹⁴

On motion the resolution was adopted, and the President instructed to inform the good people of Colfax, the time of their acceptance of the invitation.

On motion of Mr. O'Dell the Convention resolved itself into Committee of the whole, and resumed consideration of the article entitled "Officers."

At half past eleven o'clock A. M., the article as amended, was adopted and ordered engrossed for its third reading.

Adjourned until Friday morning at 10 o'clock.

TWENTY-FIRST DAY — JULY 5TH

Quorum present. Journal read and approved.

On motion the Convention resolved itself into Committee of the Whole on the article entitled "Judiciary." The first section of the article was amended so as to read as follows: "The Court for the trial of impeachment shall be composed of the Senate. The House of Representatives shall have the power of impeaching all civil officers of the State for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. On trial of an impeachment against the Governor, the

¹⁴ The neighboring towns were all ambitious and anxiously sought a visit from members of the convention. The courtesy of free rides were offered on stages, railroad, and steamboats.

Chief Justice of the Supreme Court shall preside. No judicial officer shall exercise his office after he shall be impeached until his acquittal. Before the trial of an impeachment, the members of the Court shall take an oath or affirmation, truly and impartially to try the impeachment according to evidence; and no person shall be convicted without the concurrence of two-thirds of the members elected. Judgment in cases of impeachment shall not extend further than removal from office, or removal from office and disqualification to hold any office of honor, profit or trust under the State; but this shall not prevent the officer from being prosecuted, tried and punished in the Courts according to law."

The second section was amended so as to give to the Supreme Court "a general superintending control over all the inferior Courts, under such regulations and limitations as may be prescribed by law."

At 12 o'clock M. the Committee rose, and asked leave to sit again. The Convention took a recess until half-past one o'clock P. M.

AFTERNOON SESSION

Convention re-assembled at the appointed hour, and went into Committee of the whole to further consider the "Judiciary" article.

The first part of section Four reads: "For the term of four years, and thereafter, until the Legislature shall otherwise provide, the Judges of the several Circuit Courts shall be *ex officio* Judges of the Supreme Court. * * * *

This leaves the Supreme Court in the same condition as it was before.

All the members of the Committee who reported this article, stated that they were unanimously in favor of a separate Supreme Court, but thought they would not be warranted at the present time in embodying it in the Constitution.

This standpoint was taken on an economical basis, and after argument the Committee refused to amend so as to make a separate Supreme Court.

Section Eight reads, "In all causes submitted in the Supreme Court, and in all cases tried by the Circuit Courts without a jury, the judgment or decree shall be entered at the same term at which the causes are submitted."

At half-past five the Committee of the Whole rose, the President resumed the Chair, and Mr. Eldridge, Chairman of the Committee, reported progress, and asked leave to sit again.

On motion, leave to sit again was granted.
Adjourned.¹⁵

TWENTY-SECOND DAY—JULY 6TH

Quorum present.

Prayer by the Rev. Mr. Shields.

Journal read and approved.

Convention resolved itself into Committee of the whole to further consider the article entitled "Judiciary."

Part of Section Fourteen, reads as amended:

"Every Judge (Judge of the Supreme Court; and of the Circuit Courts,) shall, before taking his office, subscribe and file with the Secretary of State, a written pledge that he will not, during the term for which he was elected, or appointed, accept any office of profits or trust, except a judicial office under the government of the United States, or under any State of the Union, or any foreign power."

This provision has no particular legal effects. It is entirely a moral obligation.

If a Judge should violate the required pledge, and a legal question raised, and brought into the higher judicial tribunals for adjudication, the inevitable result would be an acquittal. But such a case, as it is only a pledge of honor, a moral obligation would cast such obliquy and shame upon the offender that a similar occurrence would not be known.

On motion the committee rose, reported progress and asked leave to sit again—granted.

Convention took a recess until half-past one P. M.

AFTERNOON SESSION

Convention re-assembled at the appointed hour, in Committee of the whole, to resume consideration of the "Judiciary" article.

Section 22nd was so amended as to constitute a County Court in each County, "which shall have such jurisdiction in matters relating to the estates of deceased persons, and to the persons and estates of minors, and persons of unsound mind, as may be prescribed by law." It has also civil jurisdiction, etc.

This abolishes the separate Probate Court existing at the present time within the Territory.

The following new section to the article was offered by Mr. Dennison, and on motion was lost.

¹⁵ On this day there must have been talk of two additional sections for the Declaration of Rights, as the Walla Walla Union of July 6, has an editorial about them showing that no man or corporation was to be allowed to own more than 640 acres of land. The editorial says the idea seems to have been to prevent a man "from exercising the right to get rich." The sections complained of were not adopted.

"All judicial officers before entering upon their duties shall take the following oath or affirmation, to wit:

I, A. B., do solemnly swear or affirm that I will administer justice without respect to persons, and do equal justice to the poor and to the rich; and that I will faithfully and impartially discharge all the duties incumbent on me as * * * according to the best of my abilities and understanding, agreeably to the Constitution and laws of the United States, and of the State of * * * so help me God."

On motion the Committee of the whole rose, the President resumed the Chair, and the Chairman of the Committee reported, and the Committee discharged from further consideration of the article.

On motion the report was tabled for future consideration of the Convention.

On motion the article entitled "Declaration of Rights" was taken from the table and acted upon.

Part of Section 8 as amended reads: "* * *. The right of a trial by a jury of twelve persons shall remain inviolate in all criminal cases; but a jury in civil cases, in all courts, may consist of less than twelve persons, as may be prescribed by law; and the concurrence of three-fourths of the whole number of the jury shall in such cases be sufficient for a verdict; *provided*, that the right in all civil cases may be waived by the parties, in such manner as may be provided by law. Hereafter a grand jury shall consist of seven persons, and any five of whom concurring may find an indictment: *provided*, the Legislature may change abolish, regulate or re-establish the grand jury system."

Section 12 abolishes imprisonment for debt.

An amendment was sent up, giving power to imprison for debt when there was fraud etc. Argument on this amendment occupied the entire afternoon. The Convention was about equally divided in opinion. Much hauling, pulling and sharp shooting took place.

At half past four the Convention adjourned until 10 o'clock A. M. Monday.

TWENTY-THIRD DAY—JULY 8TH

Quorum present. Journal amended and approved.

Mr. Henry granted leave of absence on account of sickness.

Committee No. 3, through Mr. Leland, reported back the article entitled "Preamble."

On motion the report was laid on the table.

Mr. Emery from Committee on "Engrossed Articles," reported the following articles as properly engrossed, "Amendments," "Officers," "Administrative" and "Executive."

The Convention took up the article "Declaration of Rights," and

again went into a lengthy discussion on the section, authorizing imprisonment for debt.

At quarter to 10 o'clock, on motion of O'Dell and Hanna, a call of the house was made, and the following absentees noted: Henry and Lacy—Henry was absent on leave. Mr. Lacy was brought in.

The following substitute to the section, was offered by Eldridge and adopted:

"No person shall be imprisoned for debt, except in case of fraud in contracting the debt, or of absconding debtors having means legally applicable to the payment of such debt or some part thereof."

The vote adopting stood: Ayes—Andrews, Bradshaw, Dennison, Emery, Gilmore, George, Larrabee, Steward, Wait and Mr. President. Noes—Eldridge, Hanna, Lacy, O'Dell—Henry absent.

Mr. Lacey was granted leave of absence until half past one o'clock, P. M.

At 12 M. the Committee of the whole rose, reported progress, and asked leave to sit again—granted.

Recess taken until half past one P. M.

AFTERNOON SESSION

Convention re-assembled at the appointed hour.

Mr. Dennison offered the following as a new section to the article entitled "Declaration of Rights:"

"The right to hold any of the following offices in this State shall not be denied to any person on account of sex; anything in this Constitution to the contrary notwithstanding. That is to say: office of Notary Public, office of Commissioner of Deeds, office of County Clerk, office of Treasurer, of any county, city, town, or district, office of Clerk in the Legislature, Judicial, or Executive department, office in any institution of learning or institution for insane, deaf or dumb persons, office of Superintendent of Public Instruction, office of County School Superintendent, School Director or School District Clerk."

After amending by striking out "Judicial," the section was adopted.

Ayes—Dennison, Eldridge, Gilmore, George, Steward, Wait and Mr. President. Noes—Andrews, Bradshaw, Emery, Hanna, Larrabee, Lacy and O'Dell.

On motion of Larrabee the article entitled "Declaration of Rights" was ordered engrossed for third reading.

The article entitled "Judiciary" was taken from the table and acted upon.

After considerable discussion and unparliamentary wrangle, Sec-

tion 22 providing for a separate Probate Court, was amended, cut up, blotted out, substituted, and after spending two half days, left just as it was originally reported. It was adopted by the following vote: Ayes—Andrews, Wait, Larrabee, Gilmore, Eldridge, Dennison, Bradshaw, Hanna, O'Dell, George, Lacy and Emery. Noes—Steward—Henry absent.

Larrabee offered substitute to Section 2. It was rejected by the following vote: Ayes—Larrabee. Noes—Andrews, Wait, Steward, Gilmore, Eldridge, Dennison, Bradshaw, Hanna, O'Dell, George, Lacy, Emery, and Mr. President.

Larrabee moved to strike out the same section. Ayes—Andrews, Bradshaw, Larrabee, O'Dell, Steward, and Mr. President. Noes—Dennison, Eldridge, Emery, Gilmore, George, Hanna, Lacy and Wait. Henry absent.

After further amendment to the "Judiciary" article, it was ordered engrossed for a third reading.

Adjourned.

During the afternoon session Hon. E. P. Ferry, Governor of the Territory, was present and occupied a seat on the left of the Present of the Convention.¹⁶

TWENTY-FOURTH DAY—JULY 9TH

Quorum present. Prayer by Rev. McConkey, of the Episcopal Church.

Journal read and approved.

On motion of Mr. Larrabee, the article on "Legislative" was taken from the table and ordered printed for third reading.

Moved by Mr. George that the vote by which the article entitled "Judiciary" be reconsidered. Ayes—Dennison, Eldridge, Gilmore, George, Henry, Hanna, Lacy and Wait—8. Noes—Andrews, Bradshaw, Larrabee, O'Dell, Steward, and Mr. President—6.

Call of the house was ordered on motion of Larrabee and Andrews—Emery absent, and after being notified, made his appearance.

Leave of absence granted to Mr. Emery on account of sickness.

After amending the "Judiciary" article it was tabled and ordered engrossed for 3rd reading.

¹⁶ Governor Elisha Peyre Ferry afterwards became the first Governor of the State and in his honor Ferry County was subsequently named. At the time of the Walla Walla Constitutional Convention, his name was often in the newspapers. The same paper that made the above record has an item about Governor Ferry having instituted a suit for \$10,000 damages against H. L. Blanchard, "nominal editor of the Democratic Press" for having charged the Governor with a corrupt use of the pardoning power. The outcome is not indicated, but no one ever succeeded in proving Governor Ferry corrupt in anything. The Walla Walla *Times* for July 27, 1878, praised the Governor for not listening to the wild and ill-founded cries for help from those fearing Indian attacks. He did use the Territory's power in two instances while there in Walla Walla, but was firm against rushing deeply into expense until the Indian danger was more urgent.

On motion of Bradshaw the "Preamble" was taken from the table and acted upon.

After making a substitution, and reading the 2d time, was on motion ordered engrossed for 3d reading.

On motion of George, the Convention resolved itself into a Committee of the whole to consider the article entitled "Finance," with Mr. Andrews in the Chair.

Mr. Abernathy offered an amendment to Section 3, exempting church property from taxation. On motion it was lost.

Committee rose, reported progress and asked leave to sit again—granted.

Convention took a recess until half past one o'clock P. M.

AFTERNOON SESSION

Convention reassembled at the appointed hour.

On motion the Convention went into a Committee of the whole, and further considered the article entitled "Finance."

During the deliberation of the article, quite an extended argument ensued on "double taxation," and exemption of taxes.

Hanna offered an amendment to the section on taxes, prohibiting the setting off of debts against the taxation of property—amendment carried.

In our opinion the section as it now stands does not prevent double taxation.

When it is read for the third time we will give the section in full.

The following new sections were recommended by the Committee:

Section 20th—"The Legislature may borrow money to repel invasion, suppress insurrection, or defend the State in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created."

Section 21st—"The State shall never contract any debt for works of internal improvement, or be a party in carrying on the same."

Section 22nd—"No money shall be drawn from the Treasury for the benefit of any church, or religious societies, or religious or theological seminaries."

On motion of Mr. Andrews, the Committee of the whole was discharged from further consideration of the article.

On motion of Mr. Lacy the Convention adjourned.

The Governor was present and occupied a seat on the platform, with the President of the Convention.

TWENTY-FIFTH DAY—JULY 10TH

Quorum present.

Prayer by Rev. Mr. Boyd.

Journal read and approved.

Mr. Henry, from Committee on "Memorial relative to improving Snake river," submitted a draft of a memorial.

On motion of Mr. Dennison, the memorial was referred to Printing committee, with instructions to print.

On motion of Mr. Larrabee, the following motion was adopted, "Resolved, that an engrossing clerk be employed at \$4 per day, until the work of copying is completed. That the Secretary be directed to appoint a competent person." The Secretary appointed L. B. Noble.

Proceeding to the order of unfinished business the Convention resumed consideration of the article entitled "Finance."

The convention considered the amendments proposed by the committee of the whole separately.

To section 2 and 3 the following was inserted, "No set-off of debts against the assessed value of property shall be allowed.

On motion of Lacy, the article was engrossed for third reading.

Mr. Steward, from committee on engrossed articles, reported that the article entitled "Preamble" had been correctly engrossed.

On motion of Mr. Larrabee, the Preamble was put upon its third reading, and in passing it the vote stood:

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Gilmore, George, Henry, Hannah, Lacy, Larrabee, O'Dell, Steward, Wait and Mr. President. Mr. Emery absent.

On motion a committee of six was appointed on Revision and Arrangements, as follows: Larrabee, Eldridge, Steward, Andrews, O'Dell and Bradshaw.

On motion of Larrabee, the article entitled "Distribution of Powers," was read the third time and passed unanimously.

On motion of Mr. Bradshaw, the article entitled Amendments, was read the third time and passed with same result as above.

On motion of O'Dell, the article on "Boundaries" was read the third time and passed unanimously.

On motion the following articles were read the third time and passed: "Administrative," "Executive," "Officers." On motion of Mr. Larrabee, the articles passed, severally entitled Preamble, Boundaries, Distribution of Powers, Administrative, Executive, Officers, and Amendments, were ordered printed.

On motion of Mr. O'Dell, the article entitled "Corporations" was

taken from the table, read the first and second time, and the convention went into committee of the whole to consider the same.

At 12 o'clock m. committee of the whole rose, reported progress, and leave was granted to sit again.

Convention took a recess until 2 o'clock P. M.

AFTERNOON SESSION

Convention reassembled at 2 P. M.

Mr. Lacy, from committee on contingent expenses, reported.

On motion of O'Dell, the report was adopted, and the President authorized to issue certificates for the several amounts mentioned in the report.

On motion of O'Dell the convention resolved itself into committee of the whole on the article entitled "Corporations," with Mr. O'Dell in the chair.

At 3 o'clock P. M. the Committee of the whole rose, the President resumed the chair, and the chairman of the committee reported amendments with a recommendation for their adoption.

On motion of Eldridge the amendments were considered *seriatim*.
Adjourned.

TWENTY-SIXTH DAY—JULY 11TH

Quorum present.

Prayer by Rev. S. H. Young.

Journal read and approved.

Mr. George, from committee No. 2, reported as follows:

"The committee to whom was referred the matters of "navigable waters," "swamp lands," and "swamp and tide lands," report that they have had the same under consideration and report the same back to the convention without any recommendation.

Mr. George, from committee No. 2, reported the following articles, respectively, "Eminent Domain," and "The Rights of Married Women, and Exemptions," and "State Institutions."

On motion the several articles were laid on the table and ordered printed.

Proceeding to the order of unfinished business, the convention resumed consideration of the article entitled "Corporations."

On motion of Mr. Bradshaw, a call of the convention was had, and all the members found present except Lacy, Leland and Emery.

Mr. Leland, not having a vote, was excused, and Mr. Emery being absent on sick leave, the Sergeant-at-Arms was dispatched to bring in Mr. Lacy. After notification, he made his appearance. (He should have been fined.—Ed.)

Mr. Dennison moved to amend section 3 of the article entitled Corporations, by adding the following words:

"Laws also shall be passed regulating the liability of common carriers of passengers in cases of personal injuries, occasioned by negligence on the part of the carrier."

Adopted unanimously.

On motion of Mr. O'Dell, Mr. Lacy was granted leave of absence until half-past one o'clock, subject to the call of the convention.

Mr. Hannah moved that the following new section be adopted:

"The Legislature shall not have the power to establish or incorporate any bank or banking company, or monied institution whatever, nor shall any bank company or institution exist in the State, with the privilege of making, issuing, or putting in circulation, any bill, check, certificate, promissory note, or other paper, or the paper of any bank, company, or person to circulate as money."

After amendment it was adopted.

In the discussion of this new section, the general "Finance" question was brought up and dissected.

[In our humble opinion, the convention got into deep water when they "tackled" the principles of finance.—Reporter.]¹⁷

In the midst of the discussion, the convention took a recess until 2 o'clock P. M.

AFTERNOON SESSION

Convention re-assembled at 2 o'clock P. M.

After further considering the article entitled "Corporations," it was tabled and ordered engrossed for its third reading.

The convention resolved itself into committee of the whole on the article entitled "Suffrage and Elections," with Mr. Lacy in the chair.

In deliberating upon this article, Mr. Wait offered a new section on "local option." In moving its adoption he supported his position in strong terms, and made a splendid speech.

Mr. O'Dell stood firm to the sentiments expressed in the section, and stated that he came to the convention pledged to support such an article. Mr. Dennison said that he liked the ring of the remarks of the

¹⁷ It will be observed that the editor of the paper and the reporter did not hesitate to inject their opinions into the official record. Editorials also gave advice but always in a respectful tone. In the issue for July 20, there appeared a poem entitled "An Exhortation," and addressed: "To the Members of the Constitutional Convention of Washington Territory, now sitting at Walla Walla, W. T." There are ten stanzas of quaint advice about laws and issues, ending with an eleventh stanza as follows:

'Ho! Gentlemen of Washington!
List to a poor bard's tale—
His honest counsel do not shun;
And may your crops ne'er fall!
Your deep'ning woods,
Your welling floods,
And fields, and mountains blue—All hail!"

gentleman who had just spoken, but could not support such a measure except as a separate article.

Larrabee and Andrews expressed themselves similarly. Andrews' constituents had canvassed the matter in his county, and had directed him to use his influence against the introduction of such a section into the Constitution.

On motion the new section was rejected.

The committee of the whole rose, reported the amendments and was discharged from further consideration of the article.

Report of the committee reported back to convention.

Adjourned.

TWENTY-SEVENTH DAY—JULY 12TH

Quorum present.

Journal read and approved.

Mr. Larrabee from committee on "Substitution and Revision," reported back the "Preamble" without change.

Mr. Leland read a draft of a proposed schedule for the three Northern counties of Idaho—Tabled and ordered printed.

Mr. Steward from committee on "Engrossed Articles," reported that the article entitled "Declaration of Rights" had been properly engrossed.

Under the head of Unfinished Business, the Convention took up the article on "Suffrage and Elections," and the amendments reported by the committee of the whole were acted upon separately and adopted.

On motion the article was ordered engrossed for its third reading.

Female suffrage was once more brought up on striking out the word "male" before the word "citizen," and the Ayes and Noes were called for.

Mr. Eldridge proposed to amend the Section giving the right of suffrage to the people, by striking out the word "male."

The vote to strike out; stood: Ayes—Dennison, Eldridge, Gilmore and Wait.—4. Noes—Andrews, Bradshaw, George, Henry, Hanna, Larrabee, Lacy, O'Dell, Steward and Mr. President.—10.

Absent—Mr. Emery.

On motion the article was tabled and ordered engrossed for its third reading.

At 11 o'clock a. m. the Convention took a recess until half past one o'clock P. M.

AFTERNOON SESSION

Convention resolved itself into committee of the whole, and took up the article on "Education."

After amending the article, the committee of whole rose, and Mr. Lacy, chairman of the committee, reported the amendments and recommended their adoption.

On motion the committee of the whole was discharged from further consideration of the article.

Adjourned.¹⁸

TWENTY-EIGHTH DAY—JULY 13TH

Quorum present.

Prayer by Rev. Mr. Warren.

Journal read, corrected and approved.

Mr. Steward, from Committee on "Engrossed Articles," reported the following articles entitled, "Judiciary," and "Suffrage and Elections," properly engrossed.

Mr. Larrabee, from Committee on "Revision," reported amendments to the article "Declaration of Rights," and the regular order of business being dispensed with, the Convention proceeded to consider the report.

On motion of Mr. George, the amendment recommended by the Committee, striking out the following, " * * nor again be put upon trial for the same offense after having been once acquitted by a jury," was lost by the following vote: Ayes—Andrews, Bradshaw, Gilmore, Larrabee, O'Dell and Mr. President—6. Noes—Dennison, Eldridge, Emery, George, Henry, Hannah, Lacy, Steward and Wait—9.

On motion of Mr. Dennison, the Committee on "Revision" was instructed to superintend the final enrollment of the Constitution on parchment.

Mr. Larrabee gave notice that in two days he should move to reconsider the vote whereby the articles entitled "Corporation" and "Finance" were ordered engrossed for a third reading.

On motion of Mr. Larrabee the article on "Suffrage and Elections" was read third time, and the question being "shall the article pass," the ayes and noes were called as follows:

Ayes—Andrews, Bradshaw, Emery, Gilmore, George, Henry, Hannah, Larrabee, Lacy, O'Dell, Steward and Mr. President—12.

Noes—Dennison, Eldridge and Wait—3. Passed.

On motion of Mr. Larrabee the article entitled "Judiciary" was read third time and passed.

¹⁸ While the members of the Convention rested over the Sabbath, their aspirations for the proposed statehood would receive an impetus by reading in the Saturday's issue of the Walla Walla Union, July 13, 1878, an article declaring that the Northern Pacific Railroad Company really intended to build its line over the Cascade Mountains from Puget Sound to the Columbia River. The announcement was made that W. Milnor Roberts, chief engineer of the company, was then on his way to make the locating survey. The editor added: "God speed the day for the announcement of the completion of the railroad over the Cascades."

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Emery, Gilmore, George, Henry, Hannah, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—15.

Proceeding to the unfinished business, consisting of the article on "Education," Mr. Larrabee moved the adoption of a substitute for the entire article.

On motion of Mr. George the substitute was laid on the table and ordered printed.

On motion of Mr. George the report of the Committee of Whole on the Educational article was also laid on the table.

On motion of Mr. Larrabee, the article entitled, "Eminent Domain and Property of the State," was taken from the table and read the first and second time.

On motion of Mr. Larrabee, the rule was suspended and the article considered in Convention.

After one amendment, on motion of Mr. Larrabee, the rules were further suspended, the article considered, engrossed, read third time, and passed by the following vote:

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Emery, Gilmore, George, Henry, Hannah, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—15.

Noes—None.

Adjourned.

TWENTY-NINTH DAY—JULY 15TH

Quorum present.

Prayer by Rev. Mr. McConkey.

Journal read and approved.

Mr. Emery from Committee on "Engrossed articles" reported the article entitled "Legislative" properly engrossed.

Mr. Dennison, from Committee No. 1, submitted a substitute for the article on "Married Women and Exemptions," which was tabled and ordered printed.

Mr. Larrabee, from the Committee on "Revision," by unanimous consent reported an amendment to Section 8, of the "Declaration of Rights," so as to make it read as follows:

"No person shall be put upon trial for the same offense after having been once acquitted by a jury," * * * * *

Motion carried and the article amended accordingly.

On motion of Mr. Larrabee, the vote by which the articles entitled "Finance" and "Corporations" were ordered engrossed for third reading were reconsidered.

On motion of Mr. Lacy the Convention took from the table the article on "State Institutions," which was read the first and second times, and the Convention resolved into Committee of the whole thereon, with Mr. Hannah in the Chair.

At 11 a. m., on motion of Mr. Eldridge, the Committee rose and the Chairman of the Committee, Mr. Hannah, reported amendments, and on motion of Mr. Andrews the report was received and the Committee discharged.

On motion of Mr. Larrabee, the Convention proceeded to consider the amendments recommended by the Committee separately.

On motion of Mr. Lacy, after considering amendments, the article was ordered engrossed for third reading.

On motion of Mr. Larrabee the article entitled "Legislative" was read third time, and the question being "shall the article pass," the ayes and noes were taken as follows:

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Emery, Gilmore, George, Henry, Hannah, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—15.

Noes—None. Passed.

On motion of Mr. George, the article on Corporations was taken up by the Convention.

It was moved to add certain words to Section 6, specifying the liability of stockholders in joint stock companies and corporations.

Several substitutes were offered and before the question was decided the Convention took a recess until half-past 1 o'clock, P. M.

AFTERNOON SESSION

The Convention resumed consideration of the proposed amendments to the article on Corporations.

All amendments and substitutes to Section 6 were withdrawn, except the motion of Mr. Larrabee, which was to add the following words:

"The stockholders of all corporations and joint stock companies shall be individually liable for all labor performed for such corporation or company." The vote stood:

Ayes—Dennison, Eldridge, Hannah, Larrabee, O'Dell, Steward, Wait and Mr. President—8.

Noes—Andrews, Emery, Gilmore, George, Henry and Lacy—6.
Absent—Mr. Bradshaw. The substitute was adopted.

On motion of Mr. Larrabee, the article was ordered engrossed for third reading.

The Convention resolved itself into Committee of the whole, and took up for consideration the substitute offered by Mr. Larrabee, to the article entitled, "Education," with Mr. Wait in the Chair.

At half-past 5 o'clock the Committee rose, reported progress, and leave was granted to sit again.

Adjourned.

THIRTIETH DAY—JULY 16TH

Convention met at 8 o'clock A. M.

Quorum present.

Journal read and approved.

On motion of Mr. Hannah, the Convention was resolved into a Committee of the whole on the article entitled "Education," with Mr. Wait in the Chair.

At 10 o'clock A. M., on motion of Mr. Eldridge, the Committee rose, Mr. President resumed the Chair, and the Chairman of the Committee, Mr. Wait, submitted the following report:

"The Committee of the whole, to whom was referred the article on "Education," have had the same under consideration and report it back with a substitute and recommend the adoption of the substitute."

On motion of Mr. O'Dell, the report was adopted and the Committee discharged from further consideration of the same.

On motion of Mr. Eldridge, the substitute was read first and second times, and the rules suspended requiring the same to be referred to the Committee of the whole.

On motion of Mr. Larrabee, the Convention proceeded to consider the article by sections.

After amending and substituting, the article was tabled and ordered engrossed for third reading.

Adjourned.

AFTERNOON SESSION

The Convention resumed consideration of the unfinished business consisting of the article on "Education."

Mr. Hannah moved the adoption of the following substitute to Section 13:

"Separate schools may be established for the children of colored races, but such schools shall not be inferior in any respect to other common schools."

The substitute was lost by the following vote:

Ayes—Dennison, Gilmore, George, Henry and Hannah—5.

Noes—Andrews, Bradshaw, Eldridge, Emery, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—10.

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

On motion of Mr. Larrabee the rules were suspended, and Mr. Emery, from the Committee on "Engrossed Articles," reported the following articles properly engrossed, "Corporations," "State Institutions," and "Finance."

On motion of Mr. Lacy, the article entitled "Corporations" was read third time and passed by the following vote:

Ayes—Andrews, Eldridge, Emery, Henry, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—10.

Noes—Bradshaw, Dennison, Gilmore, George and Hannah—5.

On motion of Mr. Bradshaw, the article entitled "Finance" was read third time and passed by the following vote:

Ayes—Andrews, Dennison, Emery, Gilmore, George, Henry, Hannah, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—18.

Noes—Bradshaw and Eldridge—2.

On motion of Mr. Emery, the article entitled "State Institutions," was put upon its third reading, and passed the house by the following vote:

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Emery, Gilmore, George, Henry, Hannah, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—15.

On motion of Mr. Dennison the Convention took from the table the "Separate Articles."

On motion of Mr. Larrabee the rules requiring first and second reading and consideration in Committee of the whole were dispensed with and the articles considered in Convention.

On motion of Mr. Wait the following new separate article, No. 3, was added:

"It shall be lawful for the Electors of any County, municipal corporation, or precinct, not included within the corporate limits of any municipality, at any general election to prohibit, by a majority vote, the sale or disposal of spirituous liquors in less quantities than one gallon, except for medical or mechanical purposes. And the Legislature shall pass at its first session such laws as will carry into effect this article, if adopted."

On motion of Mr. Bradshaw the rules requiring Separate Article, No. 3, to be read first and second times and considered in Committee of the whole, were suspended.

Separate Article No. 1 was adopted by the following vote:

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Emery, Gilmore,

George, Henry, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—14.

Noes—Hannah—1.

Separate Article No. 2 adopted by the following vote:

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Emery, Gilmore, George, Henry, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—14.

Noes—Hannah—1.

Separate Article No. 3 adopted by the following vote:

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Emery, Gilmore, George, Larrabee, O'Dell, Steward, Wait and Mr. President—12.

Noes—Henry, Hannah and Lacy—3.

The words "For Separate Article No. 3," and "Against Separate Article No. 3," on motion of Mr. Larrabee, were inserted in the article entitled "Separate Articles," whereupon on motion of Mr. Andrews, the article was ordered engrossed for third reading.

Adjourned.

THIRTY-FIRST DAY—JULY 17TH

Quorum present.

Journal read and approved.

Mr. Emery from Committee on "Engrossed Articles," reported the article "Education" properly engrossed.

Mr. Larrabee, from Committee on Revision made report as to the order of final engrossment of the several articles of the Constitution on parchment.

Mr. Larrabee from the same committee as above, reported back the article "Boundaries" without amendment.

On motion the report was received and the committee discharged from further consideration of the article.

Mr. Hannah submitted resolution expressing the sense of the convention in abolishing the present Indian Reservation system.

Mr. Larrabee submitted the following substitute which was adopted after being accepted by Mr. Hannah:

WHEREAS, The satisfactory solution of the relations between the Indian tribes of Washington Territory and the United States Government is assuming such importance in view of past and pending difficulties that not only the dignity of the United States Government is being compromised, but the immediate and future welfare of Washington Territory seriously injured and retarded;

WHEREFORE, We the Delegates elected by the people of Washington Territory for the purpose of framing a Constitution for a

State Government in Convention assembled in the city of Walla Walla, hereby *Resolve*,

1st. The divided authority between the Interior Department and the War Department prevents that concert of action necessary for the establishment of a uniform policy in regard to the management of the Indians, and not only entails unnecessary expenditure of life, but of treasure at the same time.

2d. That the Indians themselves would prefer, with proper legislation in their behalf, to take up lands severally, in preference to submitting to the present Reservation system.

3d. That permanent peace can be preserved with the Indians, all tribal relations broken up, large areas of good lands thrown open to settlement, and large expenditures of money saved to the Government by the abandonment of the present Reservation system.

4th. That the attempt to perpetuate the Reservation system by the consolidation of the Indians upon fewer Reservations implies the use of a force equal to all of the entire United States Army in order to maintain peace upon our part of the frontier.

5th. That the minds of the Indians of Eastern Washington, Oregon and Idaho look to the small valleys in the mountainous regions in British Columbia as a safe refuge in case they are compelled to submit to the present policy pursued in their management, in which event predatory raids may be made upon us for years to come.

6th. That with the change of policy towards the Indians, hereinbefore suggested, to maintain the laws and preserve proper relations between citizens and Indians, the present military force in this Territory is insufficient, from the fact that we will be liable to raids from small bands of Indians, already outlawed, who are seeking refuge in British Columbia in such localities that the authorities of that Government cannot exercise a remedial control.

Be it Resolved, That a copy of these resolutions be forwarded to the President of the United States, the Senate and House of Representatives in Congress, the Secretary of War and the Secretary of the Interior.

Mr. Bradshaw, by unanimous consent called from the table the article on "Suffrage and Elections."

Mr. Bradshaw moved to add to the first clause which gives the right of suffrage to a certain class of persons, the following words: " * * * except Indians who have not severed their tribal relations."

After further amendment to the same section, the motion was lost. On motion of Mr. Bradshaw the bill was laid upon the table.

On motion of Mr. Larrabee, the article on "Education" was read third time.

Mr. Larrabee asked unanimous consent to add a section fixing the salaries of officers—granted.

The salaries of officers were fixed by amendment as follows: Governor, per annum, \$1,500; Supreme and Circuit Judges, \$2,000, each per annum; Secretary of State, \$1,500 per year; State Treasurer, \$1,500 per year; Superintendent of Public Instruction, \$1,500 per annum; Circuit Attorney, not to exceed \$1,000 per year.

The article as amended was adopted unanimously.

Convention adjourned until 1½ o'clock P. M.

AFTERNOON SESSION

Convention re-assembled at the appointed hour.

Resuming consideration of the article entitled "Education"—the same was read the third time and passed.

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Emery, George, Henry, Hannah, Larrabee, Lacy, Steward, Wait and Mr. President—18.

Noes—Gilmore and O'Dell—2.

On motion of Mr. Hannah, the proposition entitled "Swamp Lands" was taken from the table and referred to Committee No. 1.

On motion the rules were suspended and Mr. Emery from Committee on "Engrossed Articles" reported the article entitled "Separate Articles" properly engrossed.

On motion the Article on "Suffrage and Elections" was taken up.

The amendment proposed by Mr. Bradshaw at the forenoon session was withdrawn.

Mr. Larrabee moved to add a third clause to the 1st section of the article as follows:

3d. "Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization."

On motion unanimously adopted.

The article was adopted on its final passage as follows:

Ayes—Andrews, Bradshaw, Emery, Gilmore, George, Henry, Hannah, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—18.

Noes—Dennison and Eldridge—2.

Mr. Dennison, from committee No. 1, reported the article entitled "Schedule."

On motion the article was laid on the table and ordered printed.

Mr. Lacy, from Committee on "Contingent Expenses," reported two bills to the convention and recommended their payment.

On motion of Mr. O'Dell, the report was adopted, and the President authorized to issue his certificate for the amounts.

Adjourned.

THIRTY-SECOND DAY—JULY 18TH

Quorum present.

Journal read and approved.

Mr. Larrabee, from Committee on "Revision" reported the following articles with amendments: "Distribution of Powers," "Officers," "Amendments," "Legislative" and "Administrative."

The amendments recommended by the committee were adopted by the convention.

The article on "Eminent Domain" was reported back without amendments.

On motion of Mr. Andrews, the Convention resolved itself into a Committee of the whole, and took up the article entitled "Schedule."

The first three sections of the article were stricken out, and on motion of Mr. George, the Committee of the whole recommended that a committee be appointed to frame and draft an article entitled "Ordinance," to include the three sections stricken out.

On motion of Mr. Eldridge, at 12 M., the committee rose, reported progress, and leave was granted to the committee to sit again.

Convention took a recess until 2 o'clock P. M.

AFTERNOON SESSION

On motion of Bradshaw, the convention resumed consideration of the article "Schedule."

Devoted the entire afternoon to deliberating upon this article, and at half past 4 o'clock the Committee of the whole rose, reported progress and leave was granted to sit again.

Adjourned.

THIRTY-THIRD DAY—JULY 18TH [19TH]

Quorum present. Journal read and approved.

Convention resolved into Committee of the whole and resumed consideration of the unfinished business consisting of the article entitled "Schedule."

Deliberated upon this article until 12 o'clock M., when the Committee rose, reported progress, and on motion leave was granted to sit again.

After the noon recess, the Convention went into Committee of

the whole and again took up the "Schedule," which occupied the attention of the Committee the entire afternoon.

THIRTY-FOURTH DAY—JULY 20TH

Quorum present.

Proceeding to the order of reports of Committees, Mr. Dennison from Committee No. 1 reported the article entitled "Miscellaneous," and on motion it was laid on the table and ordered printed.

Mr. Larrabee from the Committee on Revision submitted the article on "Executive" with amendments.

On motion of Mr. Eldridge the amendments recommended were adopted.

On motion of Mr. Eldridge the amendments recommended by the Committee of the whole to the article on State Institutions were adopted.

Mr. Bradshaw moved that a Committee of three on Ordinance be appointed—carried.

The President appointed as such Committee, Bradshaw, Eldridge and O'Dell.

Proceeding to the order of unfinished business, on motion of Mr. Eldridge, the article entitled "Schedule" was taken up, and the Convention proceeded to consider *seriatim* the amendments recommended by the Committee of the whole.

During the consideration of the amendments, on motion of Mr. Dennison a call of the Convention was had, when all the members answered to their names except Mr. Lacy. The Sergeant-at-Arms was dispatched for the absent member, and in a short time Mr. Lacy appeared, when on motion of Mr. Andrews the further call of the house was dispensed with.

Upon the adoption of the amendments recommended by the Committee of the whole to new Section 25, Mr. Andrews moved to amend the amendment so that the first part of the section shall read as follows:

"This Constitution shall be submitted for adoption or rejection to the qualified electors of this Territory, at an election to be held on the Tuesday next succeeding the first Monday in November, 1878."

This amendment was adopted by the following vote:

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Emery, Gilmore, George, Henry, Larrabee, Lacy, O'Dell, Steward, Wait and Mr. President—14.

Noes—Hannah—1.

Mr. Eldridge moved to amend the three lines of Section 57, by adding the following words: " * * * * and in the levying of taxes a separate and additional tax of half a mill on every dollar of assessed valuation of property within the counties of Nez Perce, Shoshone, and Idaho, shall be annually imposed and collected in the same manner as other taxes are collected, until an amount equal to said indebtedness shall have been so collected."

Mr. Bradshaw moved to amend the amendment by adding the words, "But the Legislature of the State may relieve those counties from the full payment"—motion lost.

The amendment proposed by Mr. Eldridge was put to vote of the Convention, and carried.

Mr. Hannah moved to amend Section 20, so that the counties of Yakima, Klickitat and Skamania may elect one Senator.

Mr. Larrabee raised the point of order that the portion of the section proposed to change was itself an amendment recommended by the Committee of the whole, and adopted in Convention, and that the motion of Mr. Hannah was therefore out of order until the vote adopting the previous amendment was reconsidered.

Mr. President decided the point of order well taken. Mr. Hannah appealed from the decision of the Chair, and the question being "shall the decision of the Chair be sustained," the ayes and noes were called with the following result:

Ayes—Andrews, Bradshaw, Eldridge, Emery, Larrabee, Lacy and Wait—7.

Noes—Dennison, Gilmore, George, Hannah, O'Dell and Steward—6.

Absent—Henry.

So the decision of the Chair was sustained.

On motion of Mr. Gilmore the Convention took a recess until 1:30 P. M.

AFTERNOON SESSION

At the appointed hour the Convention again went into consideration of the article on Schedule.

Mr. Dennison moved to reconsider the vote by which the amendment inserted in Section 26 was adopted.

On motion of Mr. Larrabee a call of the house was had, and Mr. Bradshaw found absent.

The Sergeant-at-Arms soon notified the absent member, and he made his appearance, when upon motion of Mr. Dennison the further call of the Convention was dispensed with.

The question being on Mr. Dennison's motion to reconsider, the Ayes—Dennison, Eldridge, Gilmore, George, Henry, Hannah, ayes and noes were called with the following result:
Lacy, O'Dell, Steward and Wait—10.

Noes—Andrews, Bradshaw, Emery, Larrabee and Mr. President—5.

Mr. Andrews was called to the Chair.

The question being on the insertion of the amendment recommended by the Committee of the whole to Section 26 to-wit:

"In the event that the Congress of the United States shall designate in the act of admission the present boundary of the Territory of Washington as the boundaries of this State, 'We, the people of said Territory, by our Delegates in Convention assembled, do hereby assent thereto.'"

Mr. President resumed the Chair, and the ayes and noes were called on the amendment with the following result:

Ayes—Andrews, Bradshaw, Eldridge, Emery, Larrabee, Lacy, Steward and Mr. President—8.

Noes—Dennison, Gilmore, George, Henry, Hannah, O'Dell and Wait—7.

Article on motion was ordered engrossed for third reading.

Adjourned.

THIRTY-FIFTH DAY—JULY 22D

Quorum present.

Prayer by Rev. Mr. Eagan.

Journal read and approved.

Mr. Emery from Committee on "Engrossed Articles" reported that the "Schedule" had been properly engrossed.

On motion of Mr. Steward the report was received and the Committee discharged from further consideration of the article.

Mr. Larrabee from Committee on "Revision" reported back the article on "Legislative" with amendments. There being no objection to the amendments recommended by the committee were unanimously adopted.

Mr. Bradshaw from the Committee on "Ordinance" submitted for consideration an article entitled "Ordinance," and recommended the adoption of the same.

The report was accepted and the committee discharged.

The Ordinance articles were read third time and laid on the table.

Mr. Larrabee submitted the following resolution:

Resolved, "That the printing of 5,000 copies of this Constitution

and address in pamphlet form for distribution, shall be let by contract to the lowest responsible bidder, after 10 days' public notice. That the President of this Convention be, and is hereby authorized to procure the work to be done, and that a sum of money sufficient to pay the cost of such printing as well as of the distribution of the printed copies in equal proportion among the members of this Convention, is hereby appropriated to pay for the same."

On motion of Mr. George the resolution was referred to a special committee, with instructions to report tomorrow morning relative to the cost of such printing.

Mr. Larrabee submitted the following resolution:

Resolved, "That a committee of three, of which the President shall be one, and be Chairman, be appointed to prepare an address to the people, which shall be printed with the Constitution for distribution."

On motion of Mr. Hannah the resolution was referred to the special committee above provided for, with instruction to report.

On motion of Mr. Steward, the article entitled "Rights of Married Women and Exemptions," was taken from the table, read first and second times, and the Convention resolved into Committee of the whole thereon, with Mr. Larrabee in the Chair.

At 12 M. the Committee of the whole rose and the Chairman reported amendments with recommendations to adopt the same.

On motion of Mr. Eldridge the report was received, the committee discharged from further consideration of the article, and the amendments recommended by the committee adopted.

Convention adjourned until 2 o'clock P. M.

AFTERNOON SESSION

Mr. Larrabee from Committee on Revision reported back the article on "Judiciary" with amendments, and on motion the amendments were unanimously adopted.

The President appointed Messrs. George, Andrews and Steward a special committee to consider and report, pursuant to the resolution introduced at the forenoon session relative to printing 5,000 copies of the constitution, &c.

On motion of Mr. George, the President was added to the committee.

Mr. George moved to reconsider the vote by which the "Schedule" was ordered to a third reading. Mr. Larrabee raised the point of order, that the rules of the convention would not permit amendment after engrossment, except by unanimous consent, and that the motion

to reconsider was therefore out of order, because unnecessary to the motion to amend by unanimous consent.

The President decided the point of order well taken.

The amendments to the article then being put to vote of the convention were unanimously adopted.

The Convention resumed consideration of the article entitled "Rights of Married Women and Exemptions."

Mr. Emery moved to strike the entire article from the Constitution—lost.

Mr. Dennison moved to amend Section 2 of the article by adding: "Laws shall be passed enabling married women to make and enforce contracts relating to their personal rights and safety; and to bring and maintain actions in their own right for all injuries done to their person and personal rights."

The ayes and noes were called on this motion as follows:

Ayes—Dennison, Eldridge, Gilmore, Henry, Lacy, Steward, Wait and Mr. President—8.

Noes—Andrews, Bradshaw, Emery, George, Hannah, Larrabee and O'Dell—7.

Mr. Eldridge moved the following substitute for Section 5:

"The Legislature may also by law exempt other property belonging either to the head of a family or to other persons, from forced sale on execution."—Adopted.

Mr. Larrabee moved the adoption of the following substitute for Sections 3, 4 and 5:

"The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure, or sale for the payment of any debt or liability hereafter contracted."

On motion of Mr. Henry the article as amended was adopted.

On motion of Mr. Eldridge the article was considered as engrossed, read third time and passed by a vote of 14 to 1. Mr. Emery voting no.

By unanimous consent Mr. Larrabee from Committee on Revision reported back the article without amendments.

On motion of Mr. Bradshaw the report was received and the committee discharged from further consideration of the article.

On motion of Mr. Bradshaw, it was unanimously incorporated in the article entitled "Legislative."

On motion of Mr. George the article entitled "Miscellaneous" was taken from the table, read first and second times and the convention

resolved into Committee of the whole thereon, with Mr. Andrews in the Chair.

At 5 o'clock P. M., on motion of Mr. Gilmore, the committee rose and the Chairman reported amendments.

On motion of Mr. Eldridge the report was received and the committee discharged from further consideration of the article.

Mr. Henry asked leave of absence for the remainder of the session, and on motion of Mr. Bradshaw the same was granted.

Adjourned.

THIRTY-SIXTH DAY—JULY 23RD

Quorum present. Journal read and approved.

Mr. Lacy from Committee on Contingent Expenses, reported several bills correct, and recommended the payment of the same.

On motion the President was directed to draw warrants for the several amounts.

Mr. Larrabee from Committee on Revision reported back to the Convention the bill on Finance without amendments.

Mr. George from special committee on printing reported that the cost to print 1,000 copies of the Constitution, with the address of the President, would probably be \$200; to print 5,000 copies about \$400. Reported back the resolutions without recommendation.

On motion of Mr. Larrabee the report, with the statements of Mr. George, were received and the committee discharged.

On motion of Mr. Bradshaw the resolution relative to printing 5,000 copies, with amendments, was laid on the table.

On motion of Mr. O'Dell the Schedule was put on its third reading.

On motion of Mr. Larrabee a call of the house was made, and Mr. Emery found absent.

Mr. Hannah moved that a further call of the house be dispensed with, and the ayes and noes being called for the motion was lost.

Mr. Henry having a leave of absence, but being in the hall at the time, reported that he had *paired* with Mr. Emery.

The further call of the Convention was then dispensed with.

Mr. Henry asked leave of absence for the remainder of the term for Mr. Emery, and on motion leave was granted.

The question on the passage of the article entitled Schedule was lost.

The rules were suspended, and the article read second time, and after amendment, the rules were further suspended, the article considered engrossed, read third time, and was carried on its final passage.

On motion of Mr. Larrabee the article entitled *Miscellaneous* was taken up and acted on.

Mr. Larrabee moved the adoption of the following new section:

"None but citizens of the United States, or aliens who have declared their intention to become such, in accordance with the laws of Congress, shall be employed in or about any public office in this State, or in any State institution, or on any public work prosecuted by the State, or by any corporation, public or private, organized after the admission of the State."—Mr. Andrews in the Chair.

Mr. Lacy moved to amend by striking out all the section after the word "State." On this motion the ayes and noes were called with the following result:

Ayes—Dennison, Gilmore, George, Hannah, Lacy, O'Dell, Steward and Mr. President—8.

Noes—Andrews, Bradshaw, Eldridge, Larrabee and Wait—5.

Absent—Emery and Henry—2.

The new section as amended was then adopted unanimously, Henry and Emery being absent.

Convention took a recess until 2 o'clock P. M.

AFTERNOON SESSION

Convention resumed consideration of the *Miscellaneous* article.

A section was proposed to the article, limiting the amount of land to be owned by any one person, company, corporation, or association, to 640 acres, or one section of land according to the surveys of the United States.

The ayes and noes were called with the following result:

Ayes—Andrews, Eldridge, Gilmore, Larrabee and Wait—5.

Noes—Bradshaw, Dennison, George, Hannah, Lacy, O'Dell, Steward and Mr. President—8.

Absent—Emery and Henry—2.

Mr. Hannah proposed a section providing that the proceeds of all swamp and overflowed lands, etc., shall be set apart as a separate fund, to be called a "public building fund," to be applied to the erection of certain public buildings. The section was rejected.

On motion the article was ordered engrossed for a third reading.

On motion of Mr. Andrews the article entitled "Separate Articles" was read third time.

There being a division of the question called for, each of the articles was voted on separately and adopted.

The "Introduction" and "Conclusion" of the separate articles were also adopted.

Adjourned.

THIRTY-SEVENTH DAY—JULY 24TH

Quorum present.

Journal read and approved.

Mr. Lacy from Committee on Contingent Expenses reported without recommendation the bill of the Walla Walla Science Association for hall rent amounting to \$125. Subsequently Mr. Lacy was allowed to withdraw the bill for amendment, when on motion of Mr. Dennison, the committee was instructed that when they again report the bill to do so with their recommendation either for or against.

Mr. Dennison from committee No. 1 reported a set of resolutions.

Mr. Larrabee from Committee on Revision reported back the article on Corporations with amendments.

Mr. Larrabee moved that the Convention adjourn *sine die* on Saturday, July 27—carried.¹⁹

On motion the articles entitled respectively, "Ordinance" and "Resolutions," were taken up, read the first and second times, and the Convention resolved into Committee of the whole thereon, with Mr. Larrabee in the Chair.

After being in session for a time, on motion of Mr. Lacy the committee rose, Mr. President resumed the Chair, and the Chairman of the committee, Mr. Larrabee, reported.

On motion of Mr. Bradshaw the report was received and the committee discharged from further consideration of the article.

On motion of Mr. Bradshaw, the amendments recommended by the committee to the Resolutions were adopted.

On motion of Mr. Steward, the amendments recommended by the committee to the Ordinance were adopted.

On motion of Mr. O'Dell, the Ordinance was considered engrossed and read third time.

The vote stood on the final passage of the Ordinance as follows:
Ayes—Andrews, Bradshaw, Dennison, Eldridge, Gilmore, George, Hannah, Larrabee, Lacy, O'Dell, Steward and Wait—12.

Noes—None.

Absent—Emery, Henry and Mr. President—8.

¹⁹ When this motion was carried the editor who had been publishing the official record wrote: "We believe the members have, each and all, labored conscientiously and to the best of their ability to perform the work assigned them by the people."

On motion of Mr. O'Dell, the Resolutions were considered engrossed and read third time, and the question being shall the Resolution pass, the vote stood:

Ayes—Andrews, Bradshaw, Dennison, Eldridge, Gilmore, George, Hannah, Larrabee, Lacy, O'Dell, Steward and Wait—12.

Noes—None.

Absent—Emery, Henry and Mr. President—3.

On motion the rules were suspended and Mr. Steward from Committee on Engrossed Articles, reported the article "Miscellaneous" correctly engrossed.

On motion the article as reported from the committee was read third time, and the vote on its final passage was unanimous, Messrs. Emery, Henry and Mr. President being absent.

Mr. Lacy from Committee on Contingent Expenses, reported back bill of Science Association of \$125, with recommendation that the same be allowed.

Report received and the President directed to draw warrant for the amount.

Leave of absence was granted to Mr. Wait until 9 o'clock, Saturday morning.

Adjourned.

THIRTY-EIGHTH DAY—JULY 25TH

Quorum present.

Journal read and approved.

The President presented an invitation from the O. S. N. Co. to the members of the Convention and their wives to take a trip to Lewiston and back.

An invitation to the Convention from Jacob T. Miller, proprietor of the Walla Walla and Colfax stage line to visit Dayton and tendering a free passage.

The thanks of the Convention were sent in answer to both invitations.

Mr. Lacy from Committee on Contingent Expenses reported the bill of E. L. Heriff for stationery in the sum of \$158.36, also the accounts of the expenses of the members for traveling expenses as follows: B. F. Dennison, \$62; S. M. Wait, \$6; C. H. Larrabee, \$15.50; Edward Eldridge, \$76; A. S. Abernathy, \$34.50; S. M. Gilmore, \$10.50; D. B. Hannah, \$62; G. H. Steward, \$13; C. M. Bradshaw, \$42.50; L. B. Andrews, \$34. The committee recommended the payment of the same.

On motion of Mr. O'Dell the report was adopted and the President authorized to issue certificates for the several amounts.

Mr. Larrabee from Committee on Revision submitted the article entitled "Schedule" with amendments, and there being no objection the same were unanimously adopted.

Mr. Leland moved to amend Section 21 of the "Schedule" by inserting after the word Representatives in the 12th line of the 3d clause the following:

"The county of Nez Perce 1; the counties of Nez Perce and Shoshone 1, and the county of Idaho 1."—Adopted.

The convention proceeded to further consider the article entitled "Miscellaneous."

By leave of the convention, Mr. Larrabee withdrew his resolution relative to the appointment of a committee to prepare an address to be submitted to the people with the Constitution.

On motion of Mr. Leland the Convention proceeded to consider the resolution relative to printing 5,000 copies of the Constitution.

Mr. George moved the adoption of the following substitute:

"Resolved, That the sum of three hundred dollars be, and the same is hereby appropriated to be expended by, or under the direction of ———, in the publication and distribution of the Constitution."

The blank was filled by inserting the words, "the President of this Convention."

On motion of Mr. Larrabee the words "and twenty-five" were inserted after the word "hundred"—the substitute as amended was adopted.

AFTERNOON SESSION

The Convention re-assembled at 2 o'clock P. M.

The Committee on Revision through its Chairman, Mr. Larrabee, reported the article "Miscellaneous" with amendments, and there being no objection the amendments were adopted.

Adjourned.

THIRTY-NINTH DAY—JULY 26TH

Quorum present.

Prayer by Rev. Mr. Boyd.

Journal read and approved.

Mr. Lacy from the Committee on Contingent Expenses, reported bill of Wm. H. Newell for newspapers without recommendations; also bills of other persons amounting to \$480.13, and recommended the payment of the same.

On motion of Mr. Eldridge the report on the last mentioned

accounts was adopted, and the President authorized to issue certificates for the several amounts.

On motion of Mr. Bradshaw a committee of three consisting of Messrs. George, Lacy and O'Dell were appointed to consider the bill of W. H. Newell, to collate the facts relative thereto, and report to the Convention.

Mr. Larrabee from the Committee on Revision reported back the article entitled Resolutions, with amendments, and there being no objection the amendments were adopted.

Mr. Larrabee moved to insert in the Miscellaneous article the following new section:

"The Legislature shall have power to fix the time for the election of all officers when no provision is made for such election in this Constitution."

There being no objection, the section was unanimously adopted—whereupon Mr. Larrabee, from Committee on Revision, reported the new section without amendment.

Convention took a recess until 2 o'clock P. M.

AFTERNOON SESSION

The special committee to whom was referred the bill of Wm. H. Newell, reported and recommended the payment of five cents per copy for the *Statesman*, and the President was authorized to draw warrant for the amount.

Adjourned.

FORTIETH DAY—JULY 27, 1878

After the usual preliminary work of the morning hour, the Convention took up the Constitution as enrolled on parchment for final reading, revision and signing, at the conclusion of which on motion of Mr. George the following resolution was unanimously adopted:

Resolved, That the thanks of this Convention be and the same are hereby tendered to the Hon. A. S. Abernathy for the able and impartial manner in which he presided over its deliberations.

On motion of Mr. O'Dell the following resolution was adopted:

Resolved, That the thanks of this Convention be and are hereby tendered to W. Byron Daniels, Secretary; Wm. S. Clark, Assistant Secretary; H. D. Cock, Sergeant-at-Arms, and A. P. Sharpstein and John W. Norris for the faithful and attentive discharge of their duties during the sessions of this Convention.

On motion of Mr. Larrabee the following resolution was adopted:

Resolved, That the thanks of this Convention be tendered to the

several Clergymen who have attended upon the sessions of the Convention.

The secretary on behalf of the officers of the Convention presented the President with a silver mounted gavel as a slight testimonial of their regard and desire to be kindly remembered by him.

On motion of Mr. Steward the Convention adjourned, *sine die*.

INTRODUCTION TO THE CONSTITUTION

Those who have read the proceedings of the convention at Walla Walla, which framed the constitution, will recall that the questions of prohibition and woman suffrage were submitted as separate articles to be voted upon at the same general election at which the constitution itself was to be adopted or rejected.

At that same election there was rather a bitter contest between Thomas H. Brents (Republican) and N. T. Caton (Democrat) for Delegate to Congress. There was great interest in the question of prospective statehood but in the election itself greatest interest centered in the delegateship.

The election took place on November 4, 1878, and about that time the *Daily Intelligencer* of Seattle published a table showing the population of Washington Territory by counties as follows:

| | | | |
|-----------------|-------|-------------------|--------|
| Chehalis | 720 | Pacific | 1,411 |
| Clallam | 420 | San Juan | 700 |
| Clarke | 4,288 | *Skamania | 274 |
| Columbia | 5,820 | Snohomish | 1,042 |
| *Cowlitz | 1,893 | *Stevens | 1,360 |
| *Island | 616 | Thurston | 2,971 |
| Jefferson | 1,677 | Wahkiakum | 698 |
| Kitsap | 1,548 | Walla Walla | 5,791 |
| King | 5,943 | Whatcom | 2,155 |
| Klickitat | 1,999 | Whitman | 3,709 |
| Lewis | 1,806 | Yakima | 1,711 |
| Mason | 520 | | |
| Pierce | 2,801 | Total | 51,833 |

*Estimated from census of 1877.

Looking back through forty years, it seems that the population was rather slender to sustain the ambitions for statehood. The proposed area was great enough. In addition to Washington Territory, the three northern counties, or "panhandle" of Idaho, were to have been included. Those people in Idaho were even more interested than were those of Washington. The *Democratic Press* of Port Townsend, said on December 26, 1878: "The total vote of Idaho Territory at the recent election was 5,989, against 4,958 in 1876—a gain of 971, the principal portion of which is in the northern counties which are nearly unanimously petitioning to be set off to Washington Territory." The Seattle *Intelligencer* of November 25, 1878, copied from the *Teller* of Lewiston, Idaho: "There were a few who seemed wholly indiffer-

ent upon the question, but at this time we cannot 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."

Soon after the election it seems to have become generally known that the Constitution had been adopted and that the separate articles had been rejected. The *Seattle Intelligencer* and the *Port Townsend Democratic Press* published the vote on the Constitution only for neighboring counties. Each published editorials on the adoption of the Constitution and a favorable comment by the *San Francisco Bulletin*. Each gave the official vote by counties for Delegate to Congress. The following record of the official vote on the Constitution is obtained from the *Portland Oregonian* of December 2, 1878:

| Name of County | For Constitution | Against Constitution |
|----------------|---------------------|-------------------------|
| Chehalis | 91 | 42 |
| Clallam | 106 | 8 |
| Clarke | 386 | 330 |
| Columbia | 426 | 513 |
| Cowlitz | 115 | 207 |
| Island | 164 | 1 |
| Jefferson | 332 | 30 |
| King | 1,284 | 30 |
| Kitsap | 198 | 35 |
| Klickitat | 229 | 101 |
| Lewis | 230 | 78 |
| Mason | 54 | 49 |
| Pacific | 158 | 93 |
| Pierce | 230 | 339 |
| Skamania | 17 | 47 |
| Snohomish | 308 | 20 |
| San Juan | 167 | 20 |
| Stevens | ... | ... |
| Thurston | 459 | 118 |
| Wahkiakum | 62 | 28 |
| Walla Walla | 89 | 847 |
| Whatcom | 432 | 89 |
| Whitman | 746 | 116 |
| Yakima | 210 | 90 |
| Total | 6,462 | 3,231 |
| Majority for | 3,231 | |

On November 16, 1878, the *Seattle Intelligencer* closed an editorial on "Our Constitution" as follows: "Whether we are admitted this year, next year, or at some future time, we believe this Constitution will keep, and that the people of the Territory will not incur the expense of forming another."

One of the most prominent members of the Walla Walla convention was Col. C. H. Larrabee who spent the winter of 1878-1879 in Washington City. He wrote a letter to the *Seattle Intelligencer* which was copied in the *Port Townsend Democratic Press* of January 9, 1879, saying that Washington Territory could not hope for state-

hood until 1881 or 1882. It was hard to explain, he said, the unprecedented majority for the Republican candidate for Delegate to Congress.

On October 6, 1879, Governor Elisha P. Ferry closed his message to the Territorial Legislature by referring to the proposed railroads, to agriculture, manufacturing, commerce, climate. "And," said he, "if to those natural advantages we present a system of just laws, wisely and impartially administered, finance honestly and economically conducted, a common school and university system, adequate for the education of the rising generation, we will retain those who are now here or may hereafter come, and will soon be fully prepared to enter upon the honors, duties and responsibilities of statehood."

CONSTITUTION

PREAMBLE

WE THE PEOPLE, grateful to the Supreme Ruler of the Universe for our freedom, in order to secure and perpetuate its blessings, form a more independent and perfect government, establish justice, insure tranquility, provide for the common defense and promote the general welfare, do ordain and establish this Constitution for the State of Washington.

ARTICLE I

BOUNDARIES

THE BOUNDARIES of the State of Washington shall be as follows:

Commencing one marine league west from the mouth of the middle of the north ship-channel of the Columbia River; thence along the northern boundary of the State of Oregon, up said river, to where the forty-sixth parallel of north latitude intersects the same near the mouth of the Walla Walla River; thence, east along said parallel to where it intersects the middle of the main channel of Snake River, thence, southerly, along said channel of Snake River, to where it intersects the forty-fifth parallel of north latitude; thence, east along said parallel, to where it intersects the meridian thirty-seven degrees and thirty minutes west;¹ thence, north along said meridian, to where it intersects the crest of the Bitter Root range of mountains; thence, northwesterly, along the crest of said mountains, to where it intersects the thirty-ninth meridian west;² thence, north, along said meridian to the boundary line of the British Possessions; thence, westerly along the line of the British Possessions to a point one marine league west

¹ "West of Washington" being 114° and 30' west of Greenwich.

² "West of Washington" being 116° west of Greenwich.

from the mouth of the middle channel of the Straits of Juan de Fuca; thence southerly, a distance of one marine league west from the east shore of the Pacific Ocean, to the place of beginning—including all islands and parts of islands within said boundaries, within the jurisdiction of the United States.

ARTICLE II

EMINENT DOMAIN

SECTION 1. The State shall have concurrent jurisdiction on all rivers bordering on the State, so far as such rivers shall form a common boundary to the State and any other State or Territory, now or hereafter to be formed and bounded by the same.

SEC. 2. The title to all lands or other property, which has accrued to the Territory of Washington, by gift, grant, purchase, forfeiture or otherwise, shall vest in the State.

SEC. 3. The People of the State, in their Rights of Sovereignty, are declared to possess the ultimate property in and to all lands within the jurisdiction of the State; and all lands, the title to which shall fail from a defect of heirs, shall revert or escheat to the State.³

ARTICLE III⁴

DISTRIBUTION OF POWERS

SECTION 1. The Government of the state shall be divided into three separate and distinct departments, to wit: the Legislative, the Executive and the Judicial.

SEC. 2. No person, or collection of persons, holding any position in, or exercising any authority under, one of these departments, shall hold any office in, or exercise any authority whatever, under either of the others, except such as may be expressly provided for in this Constitution.

ARTICLE IV

SUFFRAGE AND ELECTIONS

SECTION 1. Every male person, over the age of twenty-one years, belonging to either of the following classes, who shall have resided in the State for six months next preceding any election, shall be deemed a qualified elector at such election.

1st—Citizens of the United States.

2nd—Persons of foreign birth, who shall have declared their intentions to become citizens, conformably to the laws of the

³ This statement not found in our present Constitution but the principle of law involved is in force in this State at this time.

⁴ The idea of a complete and distinct separation of governmental powers seems to be expressed in Art. III much more strongly than found a place in the present Constitution.

United States on the subject of naturalization, six months before offering to vote.⁵

3rd—Persons of mixed white and Indian blood, who have adopted the customs and habits of civilization.

The Legislature may prescribe additional qualifications for electors of municipal and school-district elections.

SEC. 2. For the purpose of voting, no person shall be deemed to have gained a residence by reason of his presence, or to have lost it by reason of his absence, while in the civil or military service of the State, or of the United States; nor while a student at any institution of learning, nor while kept at public expense in any poorhouse or other asylum, nor while confined in prison.

SEC. 3. Voters shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at elections, and in going to and returning therefrom.

SEC. 4. No person, except a qualified elector, shall be elected or appointed to any civil office in the State.

SEC. 5. The general election shall be held biennially on the Tuesday next succeeding the first Monday of November.

SEC. 6. All elections by the people shall be by ballot, and a plurality of votes shall elect, in all cases except where the person who shall receive them shall be ineligible; in which case the person receiving the next highest number of votes, and who is eligible, shall be declared elected. Elections, by persons in their representative capacity, shall be *viva voce*, and a majority shall be necessary to an election.

SEC. 7. No idiot or insane person shall be entitled to the privileges of an elector.

SEC. 8. Laws shall be passed, excluding from the right of suffrage, all persons who have been or may be convicted of bribery, perjury, or of any infamous crime; and depriving every person who shall make, or become, directly or indirectly, interested in any bet or wager depending upon the result of any election, of the right to vote at such election.

SEC. 9. The Legislature shall pass laws to preserve the purity of elections, and to guard against the abuse of the elective franchise, and shall, for that purpose, have the power to pass laws of registration.

⁵ Under this provision persons were entitled to vote and to hold many State offices, who were not citizens of the United States.

ARTICLE V *

DECLARATION OF RIGHTS

SECTION 1. All political power is inherent in the People, and all free governments are founded on their authority.

SEC. 2. The people of this State have the sole right to alter or abolish this Constitution and form of government, whenever they deem it necessary to their safety and happiness; *provided*, such change be not repugnant to the Constitution of the United States.

SEC. 3. All persons are by nature free, and equally entitled to certain natural rights; among which are, those of enjoying and defending their lives and liberties; of acquiring, possessing and protecting property; and of seeking and obtaining happiness. To secure these rights, governments are instituted, deriving their just powers from the consent of the governed.

SEC. 4. All persons have a natural and indefensible right to worship God according to the dictates of their own consciences.

No person shall be compelled to attend, erect or support any place of worship, against his consent; and no preference shall be given by law to any religious society; nor shall any interference with the rights of conscience be permitted. No religious test shall be required as a qualification for office; nor shall any person incompetent to be a witness on account of his opinions on matters of religion; but nothing herein shall be construed to dispense with oaths or affirmations; but the liberty of conscience hereby secured shall not be construed so as to excuse acts of licentiousness, or practices inconsistent with the peace or safety of the State.

SEC. 5. No person shall be deprived of life, liberty or property without due process of law, or be denied the equal protection of the law.

SEC. 6. No person, on account of sex, shall be disqualified to enter upon and pursue any of the lawful business avocations or professions of life.

SEC. 7. Every person may freely speak, write and publish his opinions on all subjects, being responsible for the abuse of that liberty; and no law shall be passed to restrain or abridge the liberty of speech or the press. In all prosecutions for libel, the truth may be given in evidence to the jury, and if it appears that the matter charged as libelous be true, and was published with good motives and for justifiable ends, the party accused shall be acquitted; and the jury shall have the right to determine the law and the fact.

* A similar declaration of rights is found in Art. I of our present Constitution.

SEC. 8. No person shall be held to answer for a criminal offense without due process of law; and no person, for the same offense shall be put twice in jeopardy of punishment, nor again be put upon trial for the same offense after having been once acquitted by a jury, nor shall be compelled, in any criminal cause, to be a witness against himself. All persons shall, before conviction, be bailable by sufficient sureties, except for murder in the first degree and treason, where the proof is evident or the presumption great; and the privilege of the writ of *habeas corpus* shall not be suspended unless when, in case of rebellion or invasion, the public safety may require. The right of trial by jury of twelve persons shall remain inviolate in all criminal causes. A jury in civil causes, in all Courts, may consist of less than twelve persons, as may be prescribed by law; and the concurrence of three-fourths of the whole number of the jury shall be sufficient for a verdict; *provided* that the right may be waived by the parties, in such manner as may be provided by law.

Hereafter a grand jury shall consist of seven persons, any five of whom, concurring, may find an indictment; *provided*, the Legislature may change, regulate, abolish or re-establish the grand jury system.⁷

SEC. 9. Every person in the State shall be entitled to a certain remedy in the law, for all wrongs and injuries which he may receive in his person, character or property; justice shall be administered to all, freely and without purchase; completely and without denial; promptly and without delay; and all Courts shall be open to the public.

SEC. 10. The right of the people to be secure in their persons, papers, houses and effects, against unreasonable seizure and search shall not be violated; and no warrant shall issue except upon probable cause, supported by oath or affirmation in writing, describing, as nearly as may be, the place to be searched, and the person or thing to be seized.

SEC. 11. There shall never be, in this State, involuntary servitude, save as a punishment for crime, whereof the party shall have been duly convicted.

SEC. 12. No person shall be imprisoned for debt except in case of fraud in contracting the same, or of an absconding debtor having means legally applicable to the payment of his debts or some parts thereof.

SEC. 13. In criminal prosecutions, the accused shall have the right to appear and defend in person and by counsel; to demand the

⁷This was a forerunner of practical abolition of the grand jury system as a regular thing which occurs in Art. I, Sec. 26, present Constitution.

nature and cause of the accusation; to have a copy thereof; to testify in his own behalf; to meet the witnesses against him face to face; to have process to compel the attendance of witnesses in his behalf; and a speedy public trial, by an impartial jury of the county or district in which the offense is alleged to have been committed.

SEC. 14. No bill of attainder, ex post facto law, nor any law impairing the obligation of contracts, or making any irrevocable grant of special privileges, franchises or immunities, shall ever be passed by the Legislature.

SEC. 15. Private property shall not be taken or damaged for public use without just compensation; and no person's particular services shall be required without just payment therefor.

SEC. 16. The rights of the people to peacefully assemble and consult for the common good, and to petition for the redress of grievances, shall never be restrained or abridged.

SEC. 17. The military shall always be in strict subordination to the civil power.

SEC. 18. All laws in relation to the possession, enjoyment and descent of property, shall be alike applicable to resident aliens and citizens.

SEC. 19. The right of the people to keep and bear arms shall not be infringed; but this shall not be so construed as to justify the carrying of concealed weapons.

SEC. 20. All elections shall be free and open; and no power, civil or military, shall interfere to prevent the free exercise of the right of suffrage.

SEC. 21. Treason against the State shall consist only in levying war against the same, or in adhering to its enemies, giving them aid or comfort; and no person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on his own confession in open Court.

SEC. 22. No person shall be transported out of the State for any offense committed within the same; and no conviction shall work a corruption of blood or forfeiture of estate.

SEC. 23. All lands within the State are declared to be allodial; and feudal tenures, with all their incidents, are prohibited. Leases and grants for agricultural lands for a longer term than fifteen years, in which rent or services of any kind shall be reserved, and all fines and like restraints upon alienation, reserved in any grant of land hereafter made, are declared to be void.⁸

⁸ An attempt to stop long leases of agricultural lands and to prevent absentee landlordism not found in present Constitution.

SEC. 24. No law shall be passed, granting to any citizen or class of citizens, privileges or immunities which, upon the same terms, shall not equally belong to all citizens.

SEC. 25. The operation of the laws shall never be suspended, except by the authority of the Legislature.

SEC. 26. The enumeration in this Constitution of certain rights, shall not be construed to deny, impair or disparage others retained by the people.

ARTICLE VI
LEGISLATIVE

SECTION 1. The Legislative power of this State shall be vested in two distinct branches; the one to be styled the Senate, and the other the House of Representatives; and both together, the Legislature of the State of Washington.

The style of all laws shall be: "Be it enacted by the Legislature of the State of Washington."

SEC. 2. The number of the members of the House of Representatives shall never be less than eighteen nor more than sixty. The Senate shall consist of one-third the number of members of the House of Representatives.

SEC. 3. The Legislature shall provide by law for an enumeration of the inhabitants of the State, in the year one thousand eight hundred and eighty-five, and at the end of every ten years thereafter; and at its first session after such enumeration, and after each enumeration made by authority of the United States, the Legislature shall apportion and district anew the members of the Senate and House of Representatives, according to the number of inhabitants, excluding Indians not taxed and soldiers and officers of the United States army and navy.

SEC. 4. Elections for members of the Legislature shall be held biennially. When vacancies occur in either House, the Governor shall issue writs of election to fill such vacancies.

SEC. 5. Senators shall be elected for the term of four years, and members of the House of Representatives for the term of two years; *provided*, that the members of both Houses first elected shall hold their offices until the time fixed for the meeting of the second Legislature, but no longer.

SEC. 6. No person shall be a member of the Legislature who shall not be a qualified elector of the district for which he is chosen, and who shall not, for at least twelve months next preceding his elec-

tion,⁹ have resided therein; *provided*, that any person who at the time of the adoption of this Constitution is a qualified elector in the county or district for which he shall be chosen, shall be eligible to the first Legislature.

SEC. 7. The first Legislature shall divide the State into at least ten legislative districts in each of which one Senator and three Representatives shall be elected at the general election then next ensuing; and the districts shall be of convenient contiguous territory, to be bounded by county, precinct or ward lines; and the number may be increased, but shall never exceed twenty. The Legislative districts shall be numbered in regular series, and the Senators chosen by the odd-numbered districts shall go out of office at the expiration of the second year; and the Senators chosen by the even-numbered districts shall go out of office at the expiration of the fourth year; and thereafter the Senators shall be chosen for the term of four years.

Representatives shall hold their office for the term of two years. In all elections of Representatives, after such division, each qualified elector may cast as many votes for one candidate as there are Representatives to be elected in the district, or he may distribute the same, or equal parts thereof, among the candidates, as he shall see fit; and the candidates highest in votes shall be elected. But the legislature may at any time after the year 1890, adopt the system known as the preferential system, in the election of Representatives, and enact such laws as will be necessary to carry it into effect.¹⁰ The terms of office of Senators and Representatives, elected at any time subsequent to the first election, shall commence at the end of the term of those in office at the time.

SEC. 8. Each member of the legislature, as a compensation for his services, shall receive four dollars for each day's attendance,¹¹ and ten cents for each mile necessarily traveled in going or returning from the seat of government, and shall not receive any other compensation, perquisite, or allowance whatsoever. No session of the Legislature, except the first, shall exceed forty days. The legislature shall never grant any extra compensation to any public officer, agent, servant or contractor, after the service shall have been rendered, or the contract entered into; nor shall the compensation or mileage of any public officer be increased or diminished during his term of office.

SEC. 9. There shall be biennial sessions of the legislature. Each House shall be the judge of the elections, returns and qualifications

⁹ The requirement of twelve months residence is not in our present constitution.

¹⁰ This was not done.

¹¹ Notwithstanding the high cost of living the present compensation is only five dollars per day.

of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may compel the attendance of absent members, in such manner and under such penalties as each House may prescribe.

SEC. 10. Each House shall have power to determine its rules of proceeding, and punish its members or other persons, for contempt or disorderly behavior in its presence; to enforce obedience to its process; to protect its members against violence, or offers of bribes, or private solicitations, and—with the concurrence of two-thirds of all the members elected—to expel a member, but not a second time for the same cause; and shall have all other powers necessary for a coordinate branch of the legislature. A member expelled for corruption, shall not thereafter be eligible to either branch of the same legislature; and punishment for contempt or disorderly behavior shall not bar a criminal prosecution for the same offense.

SEC. 11. The Senate shall, at the beginning and close of each regular session, and at such other times as may be necessary, elect one of its members as President.

SEC. 12. Each House shall keep a journal of its proceedings; and may, in its discretion, from time to time, publish the same. The doors of each House shall be kept open, except when the public welfare shall require secrecy. Neither House shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two Houses shall be sitting.

SEC. 13. Members of the legislature shall, in all cases, except treason, felony, violation of their oath of office, and breach of the peace, be privileged from arrest, during their attendance at any session of the legislature, and in going to and returning from the same; and no member shall be liable in any criminal action or criminal prosecution whatever for words spoken in debate.

SEC. 14. No act of the legislature shall take effect until ninety days after its passage,¹² unless in case of emergency (which shall be expressed in the preamble of the act) the legislature shall, by a vote of two-thirds of the members elected, otherwise direct. No bill, except the general appropriation bill, for the expenses of the government, introduced in either House after the expiration of the first thirty days of the session, shall become a law, unless the same shall have been recommended by the Governor by special message; and no bill except one so recommended, shall be considered or become a law,

¹² This provision was enacted in the Constitution of 1889, but was changed by the adoption of the initiative and referendum amendment.

unless referred to a committee, returned therefrom, and printed for the use of the members.

SEC. 15. No bill, except for general appropriations,¹⁸ shall be passed, containing more than one subject, which shall be expressed in the title; but if any subject shall be embraced in any act, which shall not be expressed in the title, such act shall be void only as to so much thereof as shall not be so expressed.

SEC. 16. Every bill (except one recommended by the Governor as aforesaid, and except a general revision of the statutes) shall be read at length at least once in each House; all substantial amendments thereto shall be printed for the use of the members before final vote on the bill; and no bill shall become a law unless a majority of all the members elected to each House shall vote in its favor, nor unless, on its final passage, the vote be taken by ayes and noes, and entered on the journal.

SEC. 17. No law shall be revised or amended by reference to its title alone, but as much thereof as is revised or extended shall be re-enacted and published at length as amended. The legislature shall not pass local or special laws in any of the following cases, viz: for laying out, opening, altering, or working roads or highways; vacating roads, town plats, streets, alleys and public grounds; regulating county or precinct affairs; regulating the practice in courts of justice; regulating the jurisdictions of Justices of the Peace, police magistrates and constables; changing the rules of evidence in any trial or inquiry; providing for change of venue in civil or criminal causes; declaring any person of age; the protection of game or shell-fish; limitation of civil actions, or giving effect to informal or invalid deeds; summoning or empaneling jurors; providing for the management of common schools; regulating the rate of interest on money; the opening or conducting of any election, or designating the place of voting; the sale or mortgage of real estate belonging to minors or others under disability; chartering or licensing ferries or toll-bridges; remitting fines, penalties or forfeitures; creating, increasing or decreasing fees, percentage or allowance of public officers; changing the law of descent; granting to any corporation, association or individual, any special or exclusive privilege, immunity or franchise whatever; allowing the redemption of real estate sold for taxes or under the final process of any court.

SEC. 18. The presiding officer of each House shall, in the presence of the House over which he presides, sign all bills and joint

¹⁸ The expression "except for general appropriations" was left out of the Constitution of 1889.

resolutions passed by the legislature, the title of which shall be publicly read immediately before signing; and the fact of signing shall be entered on the journal.

SEC. 19. The legislature shall prescribe by law the number, duties and compensation of the officers and employees of each House, and no payment shall be made to any officer or employee, who does not discharge his duties in person.

SEC. 20. The legislature shall provide by law that all stationery required for the use of the State; and all printing and binding authorized and required by them to be done for their use or for the State, shall be let by contract to the lowest bidder; but the legislature may establish a maximum price. No member or officer of any department of the government shall be in any way interested in any such contract.

SEC. 21. Any bill may originate in either House of the legislature, and a bill passed by one House may be amended by the other.

SEC. 22. The legislature shall never authorize any lottery, nor grant any divorce; the sale of lottery tickets shall be prohibited by law.

SEC. 23. The general appropriation bill shall embrace only appropriations for the ordinary expenses of the Executive, Legislative and Judicial departments; interest on the public debt, and for the purposes of education. All other appropriations shall be made by separate bill, each embracing but one subject.

SEC. 24. No money shall be paid out of the treasury except upon an appropriation by law, and by warrant drawn by the proper officer in pursuance thereof.

SEC. 25. The legislature shall not delegate to any special commission, private corporation or association, any power to make, supervise or interfere with any municipal improvement, money, property or effects, whether held in trust or otherwise, or to levy taxes or to perform any municipal function whatever.

SEC. 26. No act of the legislature shall authorize the investment of trust funds by executors, administrators, guardians or other trustees, in the bonds or stock of any private corporation.

SEC. 27. No obligation or liability of any person, association or corporation, held or owned by the State or by any municipal corporation, shall be exchanged, transferred, remitted, released, postponed or in any way diminished by the legislature; nor shall such liability or obligation be extinguished except by payment thereof into the proper treasury.

SEC. 28. Every order, resolution or vote, to which the concur-

rence of both houses may be necessary, except on the question of adjournment or relative solely to the transaction of the business of the two houses, shall be presented to the Governor for his approval; if he disapprove, he shall return it with his objections, to the house in which it originated, when it shall take the course prescribed in case of a bill.

SEC. 29. A member who has a private interest in any bill proposed or pending before the legislature shall disclose the fact to the house of which he is a member, and shall not vote thereon.

SEC. 30. The legislature shall direct by law in what manner and in what courts suits may be brought against the State.

SEC. 31. The legislature shall determine what persons constitute the militia of the State; and may provide for organizing and disciplining the same in such manner as may be prescribed by law.

SEC. 32. In all elections to be made by the legislature, the members thereof shall vote *viva voce*, and their votes shall be entered on the journal.

SEC. 33. The legislature may, by general law, confer upon the Boards of Commissioners of the several counties, such power of a local, legislative character, as they shall from time to time prescribe.

SEC. 34. The legislature shall pass laws defining the personal and property rights of married women.

SEC. 35. The privilege of the debtor to enjoy the necessary comforts of life shall be recognized by wholesome laws, exempting a reasonable amount of property from seizure or sale for the payment of any debt or liability hereafter contracted.

ARTICLE VII

EXECUTIVE

SECTION 1. The Supreme Executive Power of the State shall be vested in a Governor, who shall hold his office for four years, and shall not be eligible to the office for the next succeeding term.¹⁴

SEC. 2. No person shall be eligible to the office of Governor unless he is a citizen of the United States, and shall have attained the age of thirty years, and has been for three years next preceding his election an inhabitant of the State.

SEC. 3. The Governor shall be elected by the qualified electors of the State, at the general election next preceding the expiration of an executive term. The returns of every election for Governor shall be sealed up and transmitted to the Secretary of State, directed to the

¹⁴ The last clause of Section 1 did not find its way into the Constitution except in relation to the state treasurer.

speaker of the House of Representatives, who shall, immediately upon the organization of the house, and before proceeding to other business, open and publish the same, in the presence of a majority of both houses of the legislature, who shall, for that purpose, assemble in the house of representatives. The person having the highest number of votes for said office shall be declared duly elected. But if two or more have an equal and the highest number of votes for the same office, one of them shall immediately be chosen thereto by the house on joint ballot, and shall be declared duly elected Governor. Contested elections for Governor shall be determined by the two houses of the legislature, on joint ballot, in such manner as shall be prescribed by law.

SEC. 4. The Governor shall be commander-in-chief of the military and naval forces of the State. He shall have power to convene the legislature on extraordinary occasions, by proclamation, stating the purposes for which it is assembled. But at such session, no business shall be transacted other than that specially named in the proclamation; and in case of invasion, or insurrection, or danger from the prevalence of contagious disease at the seat of government, he may convene it at any other place in the State. He shall transact all necessary business—civil and military. He shall expedite all such measures as shall be resolved upon by the legislature, and shall see that the laws are faithfully executed.

SEC. 5. The Governor shall have power to grant reprieves, commutations and pardons, after conviction, for all offenses except treason, upon such conditions, and with such restrictions and limitations, as may be provided by law. Upon conviction of any person for treason, he shall have power to suspend the execution of the sentence until the case shall be reported to the legislature at its next meeting, when the legislature shall either pardon, or commute the sentence, direct its execution, or grant a further reprieve. The Governor shall communicate to the legislature at each regular session, every case of reprieve, commutation or pardon granted, stating the name of the convict, the crime of which he was convicted, the sentence and its date, and the date of the commutation, pardon or reprieve, with his reasons for granting the same.

SEC. 6. In case of the failure to qualify, removal from office, death, resignation, absence from the State, or other disability of the Governor, the powers, duties and emoluments of the office, for the residue of the term, or until the disability be removed, shall devolve upon the president of the senate, or if there be no president of the senate, or if, for any of the above-named causes, he shall become incapa-

ble of performing the duties of Governor, the office shall devolve upon the speaker of the house of representatives, with like powers, duties and emoluments, for the residue of the term, or until the disability shall be removed.

SEC. 7. Every bill passed by the legislature shall, before it becomes a law, be presented to the Governor for his approval. If he approve, he shall sign it; but, if not, he shall return the same, with his objections, to the house in which it originated; which house shall enter the objections at large upon its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of the members elected to that house should agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall also be reconsidered; and, if approved by two-thirds of the members elected to that house, it shall become a law. In all such cases, the vote of each house shall be determined by ayes and noes, to be entered on their respective journals. If any bill shall not be returned by the Governor within five days (Sundays excepted), after it shall have been presented to him, the same shall become a law, unless the legislature, by its adjournment, prevent its return, in which case it shall be filed, with its objections, in the office of the Secretary of State, within ten days after such adjournment or else become a law.

SEC. 8. The Governor may require information in writing, from the officers of the administrative and military departments of the State, upon any subject relating to the duties of their respective offices; which information shall be given upon oath whenever so required. He may also require information in writing at any time, under oath, from all officers and managers of State institutions. The Governor shall, at the commencement of each session, and from time to time, by message, give to the legislature, information of the condition of the State, and shall recommend such measures as he shall deem expedient. He shall also send to the legislature, at the beginning of each session, a statement of all moneys of the State, expended by him or under his direction; and, at the same time, present estimates of the amounts of moneys required to be raised by taxation for all State expenditures.

ARTICLE VIII
JUDICIAL

SECTION 1. The Court for the trial of impeachments shall be composed of the senate. The house of representatives shall have the power of impeaching all civil officers of the State, for corrupt conduct in office, or for crimes and misdemeanors; but a majority of all the members elected shall concur in an impeachment. On a trial of

an impeachment against the Governor, the Chief Justice of the Supreme Court shall preside. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try the impeachment according to the evidence; and no person shall be convicted without the concurrence of two-thirds of the members elected. Judgment, in cases of impeachment, shall not extend further than removal from office, or removal from office and disqualification to hold any office of honor, profit or trust under the State; but this shall not prevent the officer from being prosecuted and punished in the courts according to law.

SEC. 2. The judicial power of the State, both as to matters of law and equity, shall be vested in a Supreme Court; Circuit Courts; Probate Courts;¹⁵ Justices of the Peace, and such inferior municipal courts as may be provided by law.

SEC. 3. The Supreme Court, except in cases otherwise provided in this Constitution, shall have appellate jurisdiction in all chancery causes, and jurisdiction in all actions at law, civil and criminal, upon writs of error, which shall be co-extensive with the State; but in no case removed to the Supreme Court, shall a trial by jury be allowed. The Supreme Court shall have a general superintending control over all inferior courts, under such regulations and limitations as may be prescribed by law; it shall have power to issue writs of habeas corpus, mandamus, injunction, quo warranto, certiorari, and other original and remedial writs, and to hear and determine the same.

SEC. 4. For the term of four years and thereafter, until the legislature shall otherwise provide, the judges of the several circuit courts shall be *ex officio* judges of the Supreme Court, a majority of whom shall constitute a quorum; and a concurrence of a majority of the judges present shall be necessary to a decision; *provided*, that in the event the court shall be equally divided in opinion, the cause shall be continued for re-argument; and if upon re-argument, the court shall again be divided in opinion, the judgment below shall be affirmed. The legislature shall have power, after the expiration of said term, to provide by law for the organization of a separate Supreme Court, with the jurisdiction and powers prescribed by this Constitution; to consist of one chief justice, and two associate justices, to be appointed by the Governor, by and with the advice and consent of the senate. The Supreme Court, when so organized, shall not be changed or discontinued by the legislature; the judges thereof shall be so classified that but

¹⁵ Probate courts were abolished by the Constitution of 1889 and their powers given to the superior courts.

one of them shall go out of office at the same time; and their terms of office shall be the same as is provided for judges of the circuit courts.

SEC. 5.¹⁶ The State shall be divided into three judicial circuits, to be composed as follows: The first circuit shall comprise all that portion of the State lying east of the summit of the Cascade mountains, except the county of Klickitat.

The second circuit shall comprise the counties of Chehalis, Clarke, Cowlitz, Klickitat, Lewis, Mason, Pacific, Skamania, Thurston and Wahkiakum.

The third circuit shall comprise the counties of Clallam, Island, Jefferson, King, Kittitas, Pierce, San Juan, Snohomish and Whatcom.

SEC. 6. The legislature may alter the limits, or increase the number of circuits, making them as convenient and compact as practicable, and bounding them by county lines; but no such alteration or increase shall have the effect to remove a judge from office.

In case of an increase of circuits, the judge or judges shall be elected, as provided in this Constitution, and receive a salary not less than that provided for judges of the circuit court.

SEC. 7. For each circuit there shall be a judge chosen by the qualified electors therein, who shall hold his office as is provided in this Constitution. One of the judges shall be designated as Chief Justice, by the Governor by and with the advice and consent of the senate. The judges first chosen under this Constitution, shall be elected at the first general election provided herein for members of the legislature; and shall hold their offices for the term of four years. The legislature shall, at its first session, provide by law, as well for the election of, as for classifying, the judges to be thereafter elected in such manner that one of said judges shall go out of office in two years, one in four years, and the remaining judge or judges in six years; and thereafter the judge or judges elected to fill the office shall hold the same for six years.

SEC. 8. In all causes submitted in the Supreme Court, and in all causes tried by the circuit courts, without a jury, the judgment or decree shall be rendered at the same term at which the causes are submitted, or within thirty days thereafter; *provided, that* judgments and decrees may be rendered by judges of the circuit courts in vacation or upon default for failure to plead or answer.

SEC. 9. The circuit courts shall have original jurisdiction in all matters, civil and criminal, within this State, not excepted in this Constitution, and not hereafter prohibited by law; and appellate jur-

¹⁶ This section was abrogated in the Constitution of 1889, and in lieu of it we find each county made a judicial district.

isdiction from all inferior courts and tribunals; and a supervisory control over the same. They, and the judges thereof respectively in vacation shall have power to grant writs of habeas corpus, mandamus, prohibition, injunction, quo warranto, certiorari, and other original and remedial writ necessary to carry into effect their judgments and decrees, and give them a general control over inferior courts, officers and jurisdictions, and to hear and determine said writs at such times and in such manner as may be provided by law.

Remedies at law must be administered separately from those in equity.

SEC. 10. There shall be a clerk of the Supreme Court, appointed by the judges thereof, who shall hold his office during the pleasure of said judges; and his compensation shall be such fees as may be provided by law.

SEC. 11. There shall be a clerk of the circuit court, in each county where such courts are authorized to be held, who shall be appointed by the judge of the circuit, and who shall hold his office during the pleasure of said judge; his compensation shall be such fees as may be provided by law.

SEC. 12. When a vacancy shall occur in the office of judge of the Separate Supreme Court, such vacancy shall be filled by appointment by the Governor, which appointment shall hold good until a successor is appointed, by and with the advice and consent of the senate; which successor shall hold his office for the remainder of the unexpired term.

SEC. 13. When a vacancy shall occur in the office of judge of the circuit court, such vacancy shall be filled by appointment by the Governor; and the appointee shall hold for the remainder of the unexpired term.

SEC. 14. The judges of the Supreme and Circuit Courts shall not receive fees of office, or other compensation than their salaries; they shall not be eligible to any office of public trust, except a judicial office, during the term for which they are respectively elected; and all votes for either for any office except a judicial one, given by the legislature or by the people, shall be void. Every judge shall, before taking his office, subscribe and file with the Secretary of State a written pledge that he will not, during the term for which he was elected or appointed, accept any office of profit or trust—except a judicial office—under the government of the United States, or under any other state in the Union, or under any foreign power. No person shall be eligible to the office of judge who shall not, at the time of his election or ap-

pointment, be a citizen of the United States, have attained the age of twenty-five years, and be a qualified elector within the jurisdiction for which he may be chosen.

SEC. 15. The Supreme Court shall hold at least one term annually, at the seat of government of the state, at such time as shall be provided by law; and the legislature may provide for holding other terms, and at other places, when they may deem it necessary. The Circuit Courts shall hold courts at such times and places as now are or may be prescribed by law. The judges of the Circuit Court may hold terms for each other, and shall do so when required by law.

SEC. 16. The electors of the several precincts, at the time appointed for the election of county commissioners, shall, in such manner as the legislature may direct, elect justices of the peace, whose term of office shall be for two years. They shall have jurisdiction as may be conferred by law, but they shall not have jurisdiction of any case wherein the value of the property or the amount in controversy exceeds the sum of one hundred dollars, nor where the boundaries or title to real estate may be called in question. The Supreme and Circuit Courts shall be courts of record and of general jurisdiction. All inferior courts shall be courts of special and limited jurisdiction and not of record.

SEC. 17. The style of all writs and and process shall be, "The People of the State of Washington."¹⁷ All criminal prosecutions shall be carried on in the name and by the authority of the state.

SEC. 18. The legislature shall provide for the speedy publication of all laws, and of the decisions of the Supreme Court.

SEC. 19. There shall be elected by the qualified electors of each judicial circuit, at each general election for members of the legislature, a circuit attorney for each circuit, whose term of office shall be two years, and whose duties and compensation shall be as provided by law. No person shall be eligible to the office of circuit attorney who shall not, at the time of his election, be a qualified elector in the circuit for which he is elected, and shall have practiced as attorney of a court of record for at least five years.

SEC. 20. All officers provided for by this article, except judges of the Separate Supreme Court, shall respectively reside in the circuit, county, precinct or city for which they may be elected or appointed.

SEC. 21. There shall be a probate court in each county, which shall have such jurisdiction in matters relating to the estates of deceased persons, and to the persons and estates of minors and persons of un-

¹⁷ The present style of process is "The State of Washington."

sound mind, as may be prescribed by law. This court shall consist of one judge, who shall be chosen by the qualified electors of the county, and shall hold his office for the term of two years. He shall hold court at such times, and receive such compensation as may be provided by law.¹⁸

ARTICLE IX

ADMINISTRATIVE

SECTION 1. There shall be chosen, by the qualified electors, of the State, a Secretary of State, a State Treasurer, and a Superintendent of Public Instruction, who shall hold their offices for the term of four years. They shall, during their terms of office, reside at the seat of government, where shall be kept the public records, moneys, securities, books and papers of their respective offices.

SEC. 2. The Secretary of State shall keep a fair record of the Acts of the legislature, and of the official acts of the Executive departments of the State; and shall, when required, lay the same, and all matters relating thereto, before either branch of the legislature. He shall be, by virtue of his office, auditor of public accounts, and shall perform such other duties as shall be prescribed by law.

SEC. 3. The powers and duties of the Treasurer and Superintendent of Public Instruction shall be prescribed by law. The superintendent of public instruction shall be, by virtue of his office, state librarian.

SEC. 4. No person shall hold the office of state treasurer for two successive terms.

SEC. 5. In each county, there shall be elected for the term of two years, three county commissioners, who shall perform such duties as may be prescribed by law; any two of whom shall be a quorum for the transaction of business, and who shall be elected at the same time as is provided for the election of members of the legislature. There shall also be elected at the same time, in each county, one county clerk, who shall be clerk of the board of county commissioners, and be *ex officio* recorder of deeds; one sheriff; one coroner; one treasurer; one superintendent of schools; one surveyor, and one assessor; who shall severally hold their offices for the term of two years.

SEC. 6. The legislature may provide for the election or appointment of such other county, precinct, municipal and school officers as public convenience may require; and the terms of their office shall be as prescribed by law.

SEC. 7. The legislature shall, by law, classify the several counties

¹⁸ See note numbered 15.

according to population, and shall grade the compensation of the officers within the respective classes according to population. Such law shall establish scales of fees to be charged and collected by such of the county and precinct officers as may be designated therein, for services to be performed by them respectively; and where salaries are provided, the same shall be payable only out of the fees actually collected in cases where fees are prescribed. All fees, perquisites and emoluments, above the amount of such salaries, shall be paid into the county treasury.

SEC. 8. No person shall be eligible to any county office unless he shall be a qualified elector, and have resided in the county one year next preceding his election, except as otherwise provided in this Constitution.

SEC. 9. In case of a vacancy occurring in the office of either the Secretary of State, State Treasurer, or Superintendent of Public Instruction, the Governor shall fill the same by appointment; and the person appointed shall hold such office for the remainder of the term; and in case of a vacancy in either of the county, precinct, municipal or school offices the same shall be filled in such manner as may be prescribed by law.

ARTICLE X

OFFICERS

SECTION 1. Every person holding any office under the State, or any municipality therein, shall, unless removed according to law, exercise the duties of such office until his successor is duly qualified, but this shall not apply to members of the legislature, nor to members of any board or assembly, two or more of whom are elected at the same time. The legislature may by law provide for suspending any officer in his functions, pending any proceeding, the effect of which, if convicted, would be removal from office.

SEC. 2. No person shall hold any office or employment of trust or profit under the laws of the state, or any ordinance of any municipality therein, without devoting his personal attention to the duties of the same.

SEC. 3. No person hereafter convicted of embezzlement of public moneys, shall be eligible to any office of trust or profit in this state, unless restored to the rights of citizenship by a pardon from the Governor.

SEC. 4. Every civil officer shall, before he enters upon the duties of his office, take an oath or affirmation to support the Constitution of the United States, and of the State of Washington, and to faithfully

perform the duties of the office upon which he shall be about to enter.

SEC. 5. State officers, judges of the Supreme and Circuit Courts, and circuit attorneys, shall file their oaths or affirmations of office in the office of the Secretary of State. Every other officer, except the officers of municipalities and school district officers, shall file his oath or affirmation of office in the office of the county clerk of the county wherein he shall have been elected or appointed.

SEC. 6. Every person appointed to fill any vacancy, in any elective office, shall hold for the remainder of the unexpired term, unless a general election shall intervene; in which case his successor shall be elected, and shall hold for the remainder of the term.

SEC. 7. No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of the state to fight a duel, shall hold any office in this State.

SEC. 8. Public officers, except the Governor and judges of the Supreme and Circuit Courts, shall not be impeached; but corruption, malfeasance, misfeasance or non-feasance in office shall be prosecuted and tried in the same manner as criminal offenses; and judgment, upon conviction, shall be given of dismissal from office, in addition to such other punishment as may be prescribed therefor by law.

SEC. 9. The compensation of all officers, not otherwise provided for in this Constitution, shall be as prescribed by law.

SEC. 10. No person, being a member of Congress, or holding a commission to any civil or military office under the United States, except postmaster of the fourth class, shall be eligible to any office under this State; and if any person shall, after his election to any office, be appointed to any office, civil or military, under the Government of the United States, or of any State or Territory, his acceptance thereof shall vacate his office.

SEC. 11. Salaries shall be paid quarterly. The Governor, Secretary of State, Superintendent of Public Instruction and State Treasurer shall each receive fifteen hundred dollars per annum. The judges of the Supreme and Circuit Courts shall each receive two thousand dollars per annum. The salary of Circuit Attorney shall not exceed one thousand dollars per annum.

ARTICLE XI

EDUCATION

SECTION 1. The general supervision of the public schools of the state shall be vested in a board of education, whose powers and duties shall be prescribed by law. The superintendent of public instruction,

secretary of state, and state treasurer shall constitute the board of which the superintendent of public instruction shall be president.

SEC. 2. The legislature shall as soon as practicable, provide for the establishment and maintenance of a thorough and uniform system of free public schools throughout the State, wherein all residents, between the ages of five and twenty-one years, may be educated gratuitously. One or more public schools may be maintained in each school district within the state at least three months in each year.

SEC. 3. The public school fund of the state shall forever remain irreducible; the interest thereon only shall be expended in the maintenance of the schools of the state, and shall be distributed among the several counties and school districts in such manner as may be provided by law. No part of this fund, principal or interest, shall ever be transferred to any other fund, or used or appropriated for any other purpose than that herein provided. The state treasurer shall be the custodian of this fund, and the state shall make good all losses thereof that may in any manner occur.

SEC. 4. The net proceeds of the sale of all lands that have been, or hereafter may be granted by the United States to the state for educational purposes (except the lands heretofore granted, or that may be hereafter granted for the purposes of a university, or for a college of agriculture), all moneys and the clear proceeds of all property that may accrue to the state by forfeiture or escheat; all moneys which may be paid as an equivalent for military duty; and all moneys arising from any grant to the state, where the purposes of the grant are not specified. The net proceeds of the sales or other disposition of the five hundred thousand acres of land to which the state is entitled on its admission, by the provisions of section 2378 of the revised statutes of the United States; together with the five per centum of the net proceeds of the sales of the public lands which the state may receive on its admission into the Union (if Congress consents to such appropriations last mentioned)—shall be set apart as a separate fund, to be called the school fund, the interest of which, and all other revenues derived from the school lands, shall be exclusively applied in such manner as the legislature may prescribe to the support of common and graded schools and to the purchase of suitable libraries and apparatus therefor.

SEC. 5. All fines, penalties, and forfeited recognizances, arising under the general laws of the state, shall belong, and be paid over, to the counties respectively, where the offenses shall have been committed, and shall be appropriated exclusively to the support of common schools where the same may accrue.

SEC. 6. Provisions shall be made by law for the distribution of the income of the school fund among the several districts, for the support of common schools in proportion to the number of children therein, between the ages of five and twenty-one years; and no appropriations shall be made from the school fund of any district for the year in which a school shall not be maintained at least three months.

SEC. 7. Provisions shall be made by law for the support of the State University, and for connecting with the same, from time to time, such colleges, in different parts of the state,¹⁹ as the interests of education may require. The proceeds of all lands that have been, or may hereafter, be granted by the United States, to the Territory or the State, for the support of a university, shall be and remain an irreducible fund, to be called the university fund, the interest of which shall be apportioned to the support of the state university and its branches, wherever located in the state; and no sectarian instruction shall be allowed therein.

SEC. 8. The superintendent of public instruction, the secretary of state and the state treasurer, shall constitute a state board of land commissioners, for the sale, leasing and general management of the public lands belonging to the state, and for the investment of the funds arising therefrom, in such manner as the legislature may provide. Any two of said commissioners shall be a quorum for the transaction of all business pertaining to the duties of their office.

SEC. 9. It shall be the duty of the state board of land commissioners to provide for the location, protection, sale or other dispositions of all the lands belonging to the state under such regulations as may be prescribed by law. No law shall ever be passed by the legislature, granting any privileges to persons who may have settled upon any school lands subsequent to the public surveys thereof, by which the amount to be derived from the sale or other disposition of such lands, shall be diminished directly or indirectly. The legislature shall, at the earliest practicable period, provide by law that the several grants of land, made by Congress to the state, shall be located, preserved and held for disposal, for the respective purposes for which said grants were made, or which are designated in this constitution; and shall provide for the sale, leasing and general management of said lands from time to time, and for the application of the proceeds thereof in the manner directed in this constitution.

SEC. 10. University, college, common school or other lands,

¹⁹ This plan was to locate different colleges of the State University at different points of the State.

which are now held or may be hereafter acquired by the state, for educational purposes, shall, before the sale of the same, be appraised, and shall not be sold for less than the appraised value.

SEC. 11. There shall be a county superintendent of schools in each county, whose term of office shall be two years; and whose duties, qualifications and compensation shall be prescribed by law. He shall be *ex officio* commissioner of lands within his county, and shall discharge the duties of said office under the direction of the state board of land commissioners, and as provided by law.

SEC 12. No religious test or qualification shall ever be required of any person as a condition of admission into any public school or educational institution of the state, as teacher or pupil; and no sectarian doctrines shall ever be taught in the public schools in this state, nor shall any funds, set apart for educational purposes, be appropriated for the support of schools controlled in whole or in part by any church, religious society or sectarian denomination, and no appropriation from the common school fund shall be made for the support of any private school or seminary whatever.

ARTICLE XII

FINANCES

SECTION 1. The Legislature shall provide for an annual tax, sufficient to defray the estimated expenses for each year; and whenever the expenses of any years shall exceed the income, the legislature shall provide for levying a tax for the ensuing year sufficient, with other sources of income, to pay the deficiency, as well as the estimated expense for such ensuing year.

SEC. 2. All taxes shall be uniform upon the same class of subjects²⁰ within the Territorial limits of the authority levying the tax; and shall be levied and collected under general laws, which shall prescribe such regulations as shall secure a just valuation for taxation of all property, real and personal.

SEC. 3. The property, real and personal of the United States, and the property of the state and counties; property of municipalities; common-school property; cemeteries not owned or used for private or corporate profit; and public libraries—shall be exempt from taxation; and all laws exempting from taxation property other than that herein-before mentioned, shall be void.

SEC 4. The legislature shall not impose taxes for the purpose of any county, city, town or other corporation; but may by law vest

²⁰ The expression "upon the same class of subjects" is not found in our present Constitution, and its absence causes our taxation system to be too rigid.

in the corporate authorities thereof respectively, the power to assess and collect taxes for all purposes of such corporation; but no county, city, town or other municipal corporation—the inhabitants thereof or the property therein—shall be released or discharged from their or its just share of taxes, to be levied for state purposes.

SEC. 5. The power to tax corporations and corporate property shall never be relinquished or suspended.

SEC. 6. All corporations in this State, or doing business therein, shall be subject to taxation for state, county, school, municipal and other purposes, on the real and personal property owned or used by them within the territorial limits of the authority levying the tax.

SEC. 7. No money shall be paid out of the treasury, except in pursuance of an appropriation made by law.

SEC. 8. Neither the state, nor any county, city, town, or school district shall make any donation or grant to, or in aid of, or become a subscriber to, or a shareholder in—any corporation or company, or a joint owner with, any person, company or corporation, public or private, in or out of the state; except as to such ownership as may accrue to the state by escheat, or by forfeiture by operation of law; and except as to such ownership as may accrue to the state, or to any county, city, town or school district, or to either or any of them jointly with any person, company or corporation, by forfeiture or by sale of real estate for nonpayment of taxes, or by any donation or devise for public use, or by purchase by or on behalf of any or either of them under execution in cases of fines, penalties or forfeitures of recognizance, breach or condition of official bond or of bond to secure public moneys, or the performance of any contract in which they or any of them may be jointly or severally interested.

SEC. 9. Neither the state, nor any county, city, town, or school district shall lend or pledge the credit or faith thereof, directly or indirectly, in aid of any person, company or corporation, for any amount or for any purpose whatever, or become responsible for any debt, contract or liability of any person, company or corporation, in or out of the state.

SEC. 10. The state shall never contract any public debt, except in the cases and manner hereinafter described.

SEC. 11. For the purpose of defraying extraordinary expenditures, the state may contract public debts, in the aggregate, shall not, for the first fifteen years, exceed fifty thousand dollars; and shall never exceed one hundred thousand dollars. Every such debt shall be authorized by law, for some purpose or purposes to be distinctly speci-

fied therein; and every such law shall provide for levying an annual tax sufficient to pay the annual interest of such debt, and the principal within ten years from the passage of such law; and shall specially appropriate the proceeds of such taxes to the pay of such principal and interest; and such appropriation shall not be repealed, nor the taxes postponed or diminished, until the principal and interest of such debt shall have been wholly paid.

SEC. 12. No county, city, town or school district shall contract any debt unless authorized and limited by law; and no scrip, certificate, or other evidence of debt whatever shall be issued by them, except in accordance with the provisions of such law.

SEC. 13. No city or town shall contract any debt, by loan in any form, except by means of an ordinance—which shall be irrevocable until the indebtedness therein provided for shall have been fully paid or discharged—specifying the purposes to which the funds to be raised shall be applied, and providing for the levy of a tax—not exceeding twelve mills on each dollar of valuation of taxable property within such city or town—sufficient to pay the annual interest, and extinguish the principal of such debt within fifteen years, but not less than ten years, from the creation thereof; and such tax, when collected, shall be applied only to the purposes in such ordinances specified, until the indebtedness be paid or discharged. But no such debt shall be created unless the question of incurring the same shall, at a regular election for councilmen, aldermen or officers of such city or town be submitted to a vote of such qualified electors as shall, in the year next preceding, have paid a property tax therein; and a majority of those voting on the question, by ballot deposited in a separate box, shall vote in favor of creating such debts; but the aggregate amount of debt so created, together with the debt existing at the time of such election, shall not, at any time, exceed three per cent of the last valuation of property upon which said tax was paid.

SEC. 14. Nothing contained in this article shall either impair or add to the obligation of any debt heretofore contracted by the Territory of Washington, or by any county, city, town or school district within the state, in accordance with law.

SEC. 15. The State Treasurer shall keep a separate account of each fund in his hands, and shall, at the end of every quarter of the fiscal year, report to the Governor in writing, under oath, the amount of all moneys in his hands to the credit of every such fund, and the place where the same are deposited, and the number and amount of every warrant received, and the number and amount of every warrant

paid therefrom, during the quarter. The Governor shall cause every such report to be immediately published in at least one newspaper printed at the seat of government. The legislature shall, at its first session, and may at any subsequent one, provide by law regulations for the safe-keeping of the public funds, and for bonds, to be given by the Treasurer, with sureties.

SEC. 16. The making of profit, directly or indirectly, out of the state, county, city, town or school district money, or using the same for any purpose not authorized by law, by any public officer, or any other person, shall be deemed a felony, and shall be punished as provided by law.

SEC. 17. Private property shall not be taken or sold for the payment of the corporate debt of municipal corporations.

SEC. 18. There shall be a state board of equalization, consisting of the secretary of state, state treasurer and superintendent of public instruction, whose duty it shall be to adjust and equalize the valuation of real and personal property among the several counties. Also, in each county, a board of equalization, consisting of the board of county commissioners, whose duty it shall be to adjust and equalize the valuation of real and personal property within their respective counties. Each board shall also perform such other duties as may be prescribed by law; *provided*, that the legislature may prescribe the rule by which such equalization shall be controlled, and may revise or amend the same when they may deem it necessary.

SEC. 19. The state shall not assume the debt, or any part thereof, of any county, municipal corporation, or person, unless such debt shall have been contracted to repel invasion, suppress insurrection or to assist the state in the discharge of any portion of indebtedness.

SEC. 20. The legislature may borrow money or contract debts, to repel invasion, suppress insurrection, or defend the state in time of war; but the money thus raised shall be applied exclusively to the object for which the loan was authorized, or to the repayment of the debt thereby created.

SEC. 21. The state shall never contract any debt for work or internal improvement, or be a party in carrying on the same. But whenever grants of lands or other property shall have been made to the state, for particular works of internal improvement, the state may carry on such works, and shall devote thereto the proceeds of such grants, and may appropriate the revenue derived from such works in aid of their completion and repair.

SEC. 22. No money shall be drawn from the treasury for the

benefit of any church or religious society, or religious or theological seminary.

ARTICLE XIII
CORPORATIONS

SECTION 1. All existing charters, or grants of exclusive privileges, under which the corporators or grantees shall not have organized and commenced business in good faith, at the time of the adoption of this constitution, shall thereafter have no validity.

SEC. 2. Corporations may be created under general laws, but shall not be created by special act, except for municipal purposes. All general and special laws, creating corporations, may be altered, amended or repealed, in such manner, however, that no injustice shall be done.

SEC. 3. All railroads in this state shall be deemed public highways, and shall be free to all persons for the transportation of their persons and property, under such regulations as may be prescribed by law; and laws shall be passed, from time to time, establishing reasonable maximum rates of charges for the transportation of passengers and freights thereon, and to prevent unjust discrimination.

No railroad corporation, or the lessee or manager thereof, shall consolidate its stock, property or franchises with any other railroad corporation, owning or having under its control a competing line. Every railroad shall have the right, with its road, to intersect, connect with, or cross any other railroad; the manner of the exercise of which right, however, to be regulated by law. Laws shall also be passed, regulating the liabilities of common carriers of passengers in cases of personal injuries occasioned by negligence on the part of the carrier.

SEC. 4. No right of way shall be appropriated to the use of any private corporation until full compensation shall be first made to the owner, irrespective of any benefit arising therefrom; which compensation shall be ascertained in such manner as may be provided by law.

SEC. 5. No street railroad shall be constructed within any incorporated city or town, without the consent of the local authorities thereof.

SEC. 6. No corporation shall issue stock or bonds except for labor done, services performed, or money or property actually received. The stock of corporations shall not be increased except in pursuance of general law. The stockholders of all corporations and joint stock companies shall be individually liable for all labor performed for such corporation or company.

SEC. 7. Laws shall be passed, regulating the right of foreign corporations to do business in this state, and the mode in which they may sue and be sued.

SEC. 8. The legislature shall not have power to establish or incorporate any bank or banking company, or moneyed institutions whatever in this state, with the privilege of making, issuing or putting in circulation any bill, check, certificate, promissory note or other paper intended to circulate as money.

ARTICLE XIV
STATE INSTITUTIONS

SECTION 1. Educational, reformatory and penal institutions, and those for the benefit of the insane, blind, deaf and dumb, and such other institutions as the public good may require, shall be established and supported by the state in such manner as may be prescribed by law.

SEC. 2. The legislature shall not have power to change or locate the seat of government of the state; but shall, at the first session subsequent to the admission of the state, submit the question of its permanent location to the qualified electors of the state, at the general election then next ensuing. A majority of all the votes cast shall be necessary to such location; and in case no one place shall have such majority, the question shall be resubmitted at each general election until such majority vote shall effect a location. *Provided*, That, until the seat of government shall have been permanently located, as herein provided, the temporary location thereof shall remain at the capital of the territory at the time of the admission of the state.

SEC. 3. The legislature shall make no appropriations or expenditures for capitol buildings or grounds (except to keep the territorial capitol buildings and grounds in repair), until the seat of government shall have been permanently located.

SEC. 4. The university, at Seattle, and the hospital for the insane, at Steilacoom, shall, upon the adoption of this constitution, become institutions of the state, and the management thereof subject to the control of the state, under such laws and regulations as the legislature shall provide; and all gifts, grants and appropriations of money or property, real or personal, heretofore made to said institutions, or to the Territory of Washington therefor, are hereby confirmed to the use and benefit of said institutions respectively.

ARTICLE XV

MISCELLANEOUS

SECTION 1. The political year for the State of Washington shall commence on the first Monday in January in each year.

SEC. 2. The term felony, wherever it occurs in this Constitution, or the laws of the state, shall be held to mean any criminal offense punishable by death or imprisonment in the penitentiary, and none other.

SEC. 3. It shall be the duty of the legislature, at its first session, to provide a Seal for the state, to be called the "Great Seal of the State of Washington;" which shall be kept by secretary of state; and all official acts of the Governor,—his approval of the laws excepted—shall be thereby authenticated. The Seal of the Territory of Washington shall be the Seal of the state until otherwise provided by law.

SEC. 4. No county with an area of 900 square miles or less, shall be divided, or have any part stricken therefrom, without submitting the question to a vote of the qualified electors of the county, nor unless a majority of those voting on the question shall vote for the same.

SEC. 5. No county seat shall be removed until a majority of the qualified electors of the county, voting on the question, shall have voted in favor of its removal.

SEC. 6. All county officers, whose election or appointment is not provided for in this Constitution, shall be elected by the electors of the respective counties, or appointed by the Governor, or by the board of county commissioners, or other county authorities, as the legislature shall direct. All city, town and precinct officers, whose election or appointment is not provided for by this Constitution, shall be elected by the electors of such cities, towns and precincts, or by some division thereof, or appointed by such authorities thereof, as the legislature may designate for that purpose. All other officers, whose election or appointment is not provided for by this Constitution, and all officers whose offices may hereafter be created by law, shall be elected by the people, or appointed, as the legislature may provide.

SEC. 7. All navigable waters within the state shall be and remain public highways free to all citizens of the state and of the United States.

SEC. 8. No navigable stream, in the state shall be bridged dammed or obstructed by any person or corporation, without the authority of law.

SEC. 9. None but citizens of the United States, or aliens who have declared their intentions to become such, in accordance with the

laws of congress, shall be employed in or about any public office in the state, or in any state institution, or on any public work prosecuted by the state.²¹

SEC. 10. All patents and grants of lands, made by the United States to settlers and purchasers of the tide-lands, shall be ratified and confirmed by the state.

SEC. 11. In the event of the rejection of the separate articles relative to woman suffrage, the legislature may submit the question, at any general election, to the qualified electors of the state; and if a majority of all the votes cast at such election, on the question, shall be in favor of woman suffrage, then all women who are citizens of this state, and who possess the other qualifications of voters, shall be qualified electors of the state.

SEC. 12. The legislature may declare the cases in which any office shall be deemed vacant and also the manner of filling the vacancy, where no provision is made for that purpose in this Constitution.

SEC. 13. The county commissioners, superintendent of schools and the county treasurer of each county shall constitute a board of appraisers, who shall appraise all lands within their respective county, belonging to the state except tide-lands under such regulations as may be prescribed by law before they can be sold.

SEC. 14. The common law of England applicable to our condition and circumstances, and not repugnant to, or inconsistent with the Constitution of the United States or Constitution or laws of this state—shall be in full force, and the rule of decision in all courts in this state; but in the event of laws being passed, conferring rights or imposing obligations growing out of or founded upon principles of the civil, and not the common law, then the rules of the civil law may be resorted to for the purpose of interpretation and decision.

SEC. 15. The legislature shall have the power to fix the time for the election of all officers when no provision is made for such election in this Constitution.

ARTICLE XVI
AMENDMENTS

SECTION 1. Any amendment or amendments to this Constitution may be proposed in either branch of the legislature; and if the same shall be agreed to by two-thirds of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, with the ayes and noes thereon, and be submitted to the qualified electors of the state for their approval, at the next

²¹ There was much agitation in the legislature of 1910 to enact provisions similar to those of section 9 into law.

general election; and if the people shall approve and ratify such amendment or amendments, by a majority of the electors voting thereon, the same shall become part of this Constitution, and proclamation thereof shall be made by the Governor.

Provided, That, if more than one amendment be submitted, they shall be submitted in such a manner that the people may vote for or against such amendments separately. The legislature shall also cause the amendments that are to be submitted to the people, to be published in some weekly newspaper, in every county where such newspaper is published, throughout the state.

SEC. 2. Whenever two-thirds of the members elected to each branch of the legislature shall deem it necessary to call a convention, to revise or amend this Constitution, they shall recommend to the electors to vote at the next general election, for or against a convention and if a majority of all the electors voting at said election shall have voted for a convention, the legislature shall at the next session, provide by law for calling the same; and such convention shall consist of a number of members, not less than that of the most numerous branch of the legislature.

SEC. 3. Any constitution adopted by such convention shall have no validity until it has been submitted to, and adopted by, the people.

SCHEDULE

SECTION 1. That no inconvenience may arise by reason of a change from a territorial to a state government, it is declared that actions, rights, prosecutions, judgments, decrees, claims and contracts, as well of individuals as of bodies corporate—including counties, cities, towns, schools and road districts—shall continue as if no such change had taken place; and all process which may have been issued under the authority of the Territory of Washington, previous to its admission to the Union, shall be as valid as if issued in the name of the state.

SEC. 2. All laws now in force in the Territory of Washington, which are not repugnant to this Constitution, shall remain in force until they expire by their own limitation, or are altered or repealed by the legislature.

SEC. 3. All debts, fines, penalties and forfeitures, which have accrued, or may hereafter accrue, to the Territory of Washington, shall enure to the state.

SEC. 4. All recognizances heretofore taken, or which may be taken before the change from a territorial to a state government shall remain valid; and shall pass to, and may be prosecuted in the name of, the state; and all bonds executed to the governor of the Territory

of Washington, or to any county or municipal corporation, or to any officer or court in his or its official capacity, shall pass to the state authorities and their successors in office, for the uses therein expressed, and may be sued for and recovered accordingly, and all the estate, real, personal and mixed, and all judgments, decrees, bonds, specialties, choses in actions, and claims or debts, of whatever description, belonging to the Territory of Washington, shall enure to and vest in the State of Washington, and may be sued for and recovered in the same manner, and to the same extent, by the State of Washington, as the same could have been by the Territory of Washington.

All criminal prosecutions and penal actions, which may have arisen, or which may arise, before the change from a territory to a state government, and which shall then be pending, shall be prosecuted to judgment and execution in the name of the state. All offenses committed against the laws of the Territory of Washington, before the change from a territorial to a state government and which shall not be prosecuted before such change, may be prosecuted in the name and by the authority of the State of Washington, with like effect as though such change had not taken place; and all penalties incurred shall remain the same as if this Constitution had not been adopted. All actions at law and suits in equity, which may be pending in any of the courts of the Territory of Washington, at the time of the change from a territorial to a state government, shall be continued, and transferred to such court of the state, having jurisdiction of the subject matter thereof.

SEC. 5. All officers, now holding their office under the authority of the United States or of the Territory of Washington, shall continue to hold and exercise their respective offices until they shall be superseded by the authority of the state; and shall be entitled to receive, for services rendered the state, a compensation not greater than theretofore received. On the taking effect of this Constitution, all officers thereby continued in office, shall, before proceeding in the further discharge of their respective duties, take an oath or affirmation to support this Constitution. All vacancies that may occur in existing offices prior to the election and qualification of officers under this Constitution, shall be filled in the manner prescribed by law.

SEC. 6. Whenever the judge of the circuit court of any circuit, elected or appointed under the provisions of this Constitution, shall have qualified in his office, the several causes then pending in the district court of the territory, within any county in such circuit, and the records, papers and proceedings of said district court, and the seal

and other property pertaining thereto, shall pass into the jurisdiction and possession of the circuit court of the state for such county; and until the district courts of the territory shall be superseded in manner aforesaid, the said district courts and the judges thereof shall continue with the same jurisdiction and powers, to be exercised in the same judicial districts respectively, as heretofore constituted under the laws of the territory. Whenever any two of the judges of the circuit court, elected or appointed under the provisions of this Constitution, shall have qualified in their office, the causes then pending in the supreme court of the territory, and the papers, records and proceedings of said court, and the seal and other property pertaining thereto, shall pass into the jurisdiction and possession of the supreme court of the state, and until so superseded, the supreme court of the territory, and the judges thereof, shall continue with like powers and jurisdiction as if this Constitution had not been adopted.

SEC. 7. The terms of office of the governor and state officers, members of the legislature, circuit and probate judges, circuit attorneys, and all county officers first elected under this Constitution, shall commence on the seventh Monday after the first general election; and in the event that either of the persons elected shall fail to qualify within twenty days after said seventh Monday, the person receiving the next highest number of votes for such office shall take it within the next succeeding ten days, and in the event of his failure or neglect, the office shall be declared vacant, and the legislature shall provide for filling the vacancy.

SEC. 8. Until otherwise provided by law the seals now in use in the supreme, district and probate courts of the territory, are hereby declared to be the seals of the supreme, circuit and probate courts respectively of the state. The seals of municipalities and all county officers of the territory, shall be the seals of such municipalities and officers respectively under the state, until otherwise provided by law.

SEC. 9. When the state is admitted into the Union, the books, records, papers, and proceedings of the probate court in each county, and all causes and matters of administration pending therein, shall pass into the jurisdiction and possession of the probate court of the same county created by this Constitution, and the said court shall proceed to final judgment or decree, order or other determination in the several matters and causes, as the territorial probate court might have done, if this Constitution had not been adopted. And until the election and qualification of the probate judges provided for in this constitution, the territorial probate judges shall act as judges of the pro-

bate courts created by this Constitution, within the respective counties.

SEC. 10. The legislature, at its first session, shall provide for the election of all officers whose election is not provided for elsewhere in this Constitution, and fix the time for the commencement and duration of their term.

SEC. 11. In case of a contest of election between candidates, at the first general election under this Constitution, for judges of the circuit or probate courts, or for circuit attorney, the evidence shall be taken in the manner prescribed by the territorial laws, and the testimony so taken shall be certified to the secretary of state; and said officer, together with the governor and treasurer of state, shall review the evidence, and determine who is entitled to the certificate of election.

SEC. 12. The county auditors of the several counties shall provide poll books, tally lists, and forms of oath of office, for inspector judges and clerks of election for the first state election under this Constitution, in the same manner as is now provided for by law. The votes at the first general election under this Constitution, for the several officers who are to be elected at such election, shall be canvassed, returns made, and results determined, in the manner prescribed by the territorial law for canvassing votes for like officers. The votes cast for governor, state officers, members of the legislature, judges for circuit and probate courts and for circuit attorneys, shall be canvassed by the county canvassing boards, in the manner prescribed by the territorial law for canvassing votes for members of the legislative assembly; and returns shall be made to the secretary of the territory acting as secretary of state, under the same regulations as are prescribed by law for sending the abstracts of votes for delegate in congress, and the secretary, auditor and treasurer, or any two of them, on the twenty-fifth day after the election, or within ten days thereafter, shall proceed to canvass the votes and declare the result. The judges and inspectors of election, who shall have been appointed by the county commissioners, of the several counties of the territory, to hold and conduct the general election next preceding the time of holding the first general election under this Constitution, shall be and are hereby appointed judges and inspectors of the first election, as provided in section 17 in this schedule, with power to fill vacancies as provided by law.

SEC. 13. One representative in the congress of the United States shall be elected from the state at large, at the first election provided for in this Constitution; and, thereafter, at such times and places and in such manner as may be prescribed by law. When a new ap-

portionment shall be made by congress, the legislature shall divide the state into congressional districts, in accordance with such apportionment. The vote cast for representative in congress, at the first election held under this Constitution, shall be canvassed, and the result determined, in the manner provided by the laws of the territory for the canvass of the vote for delegate in congress.

SEC. 14. The first legislature shall meet at 12 o'clock, meridian, at the seat of government, on the seventh Monday after the first general election; shall effect an organization, and thereafter the legislature shall meet biennially, at such times and places as may be provided by law.

SEC. 15. Until the legislature shall otherwise provide the terms of the supreme, circuit and probate courts shall be held as is now provided by law for the supreme, district and probate courts of the territory.

SEC. 16. Until there shall be a new apportionment under the authority of the state, the senators and members of the house of representatives shall be apportioned among the several districts as follows:

The county of Walla Walla shall constitute the first senate district.

The counties of Columbia, Whitman and Stevens shall constitute the second senate district.

The counties of Clarke, Skamania, Yakima and Klickitat shall constitute the third senate district.

The counties of Cowlitz, Wahkiakum and Pacific shall constitute the fourth senate district.

The counties of Thurston and Lewis shall constitute the fifth senate district.

The counties of Pierce, Mason and Chehalis shall constitute the sixth senate district.

The county of King shall constitute the seventh senate district.

The counties of Kitsap, Snohomish and Whatcom shall constitute the eighth senate district.

The counties of Jefferson, Clallam, Island and San Juan shall constitute the ninth senate district.

Each senate district shall be entitled to elect one senator.

The counties of Cowlitz and Wakahum shall elect one representative.

The county of Cowlitz—one.

The county of Clark—two.

The county of Columbia—three.

The counties of Klickitat and Skamania—one.

The county of Lewis—one.

The county of Thurston—two.

The counties of Pacific and Chehalis—one.

The county of Pierce—one.

The counties of Pierce and Mason—one.

The county of King—three.

The county of Snohomish—one.

The county of Kitsap—one.

The counties of Kitsap and Jefferson—one.

The county of Jefferson—one.

The county of Whatcom—two.

The counties of Clallam and San Juan—one.

The county of Island—one.

The county of Whitman—two.

The county of Walla Walla—four.

The county of Yakima—one.

The county of Stevens—one.

SEC. 17. The first general election under this Constitution shall be held on the Tuesday next succeeding the sixth Monday after the admission of the state; at which there shall be elected, the governor, secretary of state, state treasurer, state superintendent of public instruction, judges of the circuit court, judges of the probate courts, members of the legislature, circuit attorneys, and for each county three county commissioners, a county clerk, sheriff, treasurer, county superintendent of schools, surveyor, coroner, and all precinct officers; and no further notice of said election shall be required.

SEC. 18. The legislature, at its first session, shall provide by law for the expiration of the terms of all officers first elected and qualified under this Constitution, on a day designated as the commencement of the political year; *provided*, the several terms of office shall not be thereby lessened nor extended more than one political year.

SEC. 19. This Constitution, when enrolled and signed, shall be deposited by the president of this convention, in the office of the governor of this territory, and in the event of its adoption by the people, the governor shall send a copy thereof to the president of the United States, with the request that he submit the same to Congress, together with our request that the State of Washington be admitted into the Union. There shall be sent, at the same time, a copy of the act of the legislative assembly of this territory, entitled, "An Act to provide for calling a convention to frame a constitution for a State of Washing-

ton, and submitting the same to the people for ratification or rejection;" approved November 9th, 1877; and also a certified abstract of the votes cast for and against this Constitution.

SEC. 20. This constitution; separate article, Number 1; separate article No. 2; and separate article No. 3—shall be submitted for adoption or rejection to the qualified electors of this territory, at an election to be held on the Tuesday next succeeding the first Monday in November, A. D., 1878. If the same be adopted by the said electors, it shall become the Constitution of the State of Washington. On such of the ballots as are for the Constitution, shall be written or printed the words, "For Constitution," on on such as are against the Constitution, the words, "Against the Constitution;" and on such of the ballots as are in favor of separate article No. 1, the words, "For separate article No. 1," and on such as are against separate article No. 1, the words, "Against separate article No. 1;" and also on such ballots as are in favor of separate article No. 2, the words, "For separate article No. 2," and on such as are against separate article No. 2, the words, "Against separate article No. 2;" and also on such ballots as are in favor of separate article No. 3, the words, "For separate article No. 3," and on such as are against separate article No. 3, the words, "Against separate article No. 3."

The election shall be conducted in the manner now prescribed by law for the election of delegate in Congress; and the votes counted and returned to the secretary of the territory, in the same manner and at the same time as are the votes for said delegate. The secretary shall canvass and certify the result to the governor within sixty days after said election, who shall make known the result by proclamation. The several elections provided for in this schedule shall be conducted according to the existing laws of this territory.

The journal of this convention shall be deposited by the president in the office of the secretary of the territory.

SEC 21. This Constitution shall be submitted to the qualified electors of the counties of Nez Perce, Idaho and Shoshone, in Idaho Territory, or that portion of them embraced in the boundaries as defined in this Constitution, on the Tuesday next after the first Monday in November, 1878, for their adoption or rejection. William Ewing and Hazen Spier, of Nez Perce county, J. M. Crooks and Frank Fenn, of Idaho county, and E. H. Bradley, of Shoshone country, are hereby appointed a board of commissioners, any three of whom shall constitute a quorum, and may fill any vacancy that may occur in said board; which board shall have an office at Lewiston, Idaho Territory, for the

transaction of the business of said board; and shall have full authority to appoint judges and clerks in each and every precinct throughout those counties above named, for said election; and the full returns of the votes in all the precincts in those counties shall be made by the respective judges and clerks of election so appointed, under oath, to the said board of commissioners, at Lewiston, within ten days after said election; which board shall open said returns, canvass the votes and certify the result of the same, and transmit forthwith said result to the secretary of Washington Territory, at Olympia, W. T., to be canvassed at the time of canvassing the result of the vote of the people of the Territory of Washington and the separate and aggregate result of the vote in both territories made known. The said board of commissioners shall give at least ten days' previous public notice of each of said elections in each and every precinct in said counties, by publication in some newspaper circulating therein, and by posting printed notices thereof at the places of holding the election. The members of said board of commissioners, and the several judges and clerks of election shall severally take and subscribe an oath before some person authorized to administer oaths, to well and truly discharge the duties of their respective offices, which oaths shall be transmitted, with the returns of said election, to the said secretary.

All laws in force in that portion of Idaho Territory, included within said boundaries, at the time of the admission of the state, not inconsistent with this constitution, shall continue in force until altered or repealed.

All officers exercising their functions of office under the laws of Idaho Territory in that portion thereof embraced in the boundaries defined in this constitution, when it takes effect, shall continue in office and in the exercise of their respective duties and authority until superseded by the state authorities, and shall take an oath to support the constitution of this state. The first general election for the officers designated in sections 18 and 17 of this schedule shall be conducted in every respect according to the existing laws of Idaho Territory, and returns thereof shall be made to the Secretary of the Territory of Washington acting as secretary of state and shall be canvassed as provided in sections 12 and 13. The counties of Nez Perce, Idaho and Shoshone shall be counties of the state and shall constitute the tenth senate district. They shall constitute one representative district and shall elect one member of the house of representatives for the county of Nez Perce, one for the counties of Nez Perce and Shoshone and one from the county of Idaho. All the provisions of

this schedule, in so far as they are applicable, shall apply to that portion of the Territory of Idaho and to the people thereof, included in the boundaries of this state. The Legislature shall have power to pass laws assenting to and confirming such provisions as may be made by congress in order to the conservation of public and private rights of every kind and nature whatsoever, founded upon law or growing out of the change in the political relations of that portion of Idaho, or of the municipal divisions thereof, or of the people who may be included within the boundaries of this state. The State of Washington hereby pledges its faith to pay to the Territory of Idaho the just proportion of territorial indebtedness, for which the said people, or the counties, or other municipalities shall be justly bound. In the levying of taxes a separate and additional state tax of one-half mill on every dollar of assessed valuation of property within the counties of Nez Perce, Shoshone and Idaho shall be annually imposed and collected in the same manner as other taxes are collected, until an amount equal to said indebtedness shall have been so collected.

ORDINANCE

The people of the Territory of Washington, together with that portion of the people of the Territory of Idaho within the boundaries as defined by this Constitution, by their delegates, in convention assembled, do ordain and declare:

First—That we adopt the Constitution of the United States as a supreme law.

Second—Perfect toleration of religious sentiment shall be secured, and no inhabitant of this State shall ever be molested in person or property on account of his or her mode of religious worship.

Third—The people of the Territory included within the boundaries of the proposed State, as set forth in this Constitution, by their delegates in convention assembled, do agree and declare, that they forever disclaim all right and title to the unappropriated public lands lying within said Territory, and that the same shall be and remain at the sole and entire disposal of the United States; that the lands belonging to persons residing without the State shall never be taxed higher than the lands belonging to residents thereof; and that no taxes shall be imposed by the state on lands or property therein, belonging to, or which may hereafter be purchased by the United States.

That these three sections shall be irrevocable without the consent of the United States and the people of the State of Washington.

SEPARATE ARTICLES

At the time of the submission of this Constitution to the electors, for their adoption or rejection, there shall be submitted, as separate articles, the following:

SEPARATE ARTICLE NO. 1²²

No person, who is otherwise 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.

SEPARATE ARTICLE NO. 2²²

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.

SEPARATE ARTICLE NO. 3²²

It shall be lawful for the electors of any county, municipal corporation or precinct not included within the corporate limits of any municipality, at any general election, to prohibit, by a majority vote, the sale or disposal of spirituous liquors in less quantities than one gallon, except for medicinal or mechanical purposes. And the legislature shall pass, at its first session, such laws as will carry into effect this article, if adopted.

On the ballots shall be written or printed the following:

"For separate Article, No. 1."

"Against separate article, No. 1."

"For separate article, No. 2."

"Against separate article, No. 2."

"For separate article, No. 3."

"Against separate article, No. 3."

In case a majority of all votes, for and against any separate article, shall be in favor of such article, the same shall become a part of the Constitution, and shall be added to the declaration of rights.

RESOLUTIONS

RESOLVED:—That the Congress of the United States be and is hereby requested, upon the application of Washington for admission into the Union, to grant to the State lands in lieu of the tide and school lands within the boundaries of the State, which have been heretofore or hereafter may be sold by the United States; and to extend to the State the benefits of the act of congress, passed September 28th, 1850, in relation to swamp and overflowed land; and to

²² These propositions show the early tendency of the people of this State toward the accomplishment of the two great reforms of equal political opportunity for the sexes and prohibition of the sale of intoxicating liquors.



grant other lands as in the cases of States heretofore admitted, for a University, for public buildings, and for general purposes; and to confirm the disposition made by the Constitution of this State, of the five per centum of the sales of the public lands of the United States, and of the five hundred thousand acres of land to which the State will become entitled by virtue of the laws of congress, upon its admission.

RESOLVED:—That congress be requested to restrict the sales of the lands in the United States in this State to actual settlers, in limited quantities, and to provide that persons who purchased lands within railroad grants which have lapsed or have been abandoned, may enter additional land for the excess paid over \$1.25 per acre; and, that homestead and pre-emption settlers shall be allowed the benefit of the minimum price, and, further, that in the selection of the five hundred thousand acres of land, the State may be allowed to select the same in tracts of not less than forty acres, instead of 320 acres, as is now provided by law.

WE, the undersigned, members of the convention to form a Constitution for the State of Washington; which is to be submitted to the people for their adoption or rejection, do hereby declare this to be the Constitution formed by us, and in testimony thereof do hereunto set our hands, this twenty-seventh day of July *Anno Domini*, one thousand eight hundred and seventy-eight.

ALEX. S. ABERNETHY, President.
 LYMAN B. ANDREWS,
 CHARLES M. BRADSHAW,
 BENJ. F. DENNISON,
 EDWARD ELDRIDGE,
 FRANCIS HENRY,
 S. M. GILMORE,
 WYATT A. GEORGE,
 H. B. EMERY,
 D. B. HANNA,
 C. H. LARRABEE,
 OLIVER P. LACEY,
 ALONZO LELAND,
 JAMES V. O'DELL,
 GEORGE H. STEWARD,
 SYLVESTER M. WAIT,
 W. BYRON DANIELS, Secretary.

