Women's Suffrage in Washington State

The following material was part of a presentation celebrating Women's History Month held by the Olympia Historical Society in the Woman's Club, Olympia, March 18, 2004. We include the text of the speeches here because they offer an excellent as well as entertaining overview of the struggle for women's right to vote during the territorial period of the state's history. We would like to thank Justice Alexander for his generosity in sharing this material with the Program.

Supreme Court Chief Justice Gerry Alexander and Charlie Wiggins donned top hats and nineteenth century-era suits to re-enact an historical discussion concerning the question of women's suffrage during the Constitutional Convention gathered in the old Capitol Building in Olympia, Washington Territory, August 12, 1889. Justice Alexander played the part of John Philo Hoyt, who had served as Speaker of the Lower House of the Michigan State Legislature, governor of the Territory of Arizona, and as a justice of the Supreme Court of Washington Territory. Edward Eldridge, played by Charlie Wiggins, was the convention delegate, former Speaker of the House and five-time House representative from Whatcom County.

Olympia Historical Society president Annamary Fitzgerald introduced the two members and set the stage:

Ladies and gentlemen, the time is 5:00 p.m. on August 12, 1889, and the place is the Capitol Building of the Washington Territory in Olympia. We are privileged to be witnesses to a portion of a session of the Constitutional Convention of the Territory of Washington, at which the delegates are considering a proposal sent to them by the Committee on Elections and Elective Rights regarding the qualification of electors.

Chairman Hoyt: Good afternoon, delegates, and to the many women in the gallery. Let me call this session of the Constitutional Convention to order. We have before us for our consideration a proposed section which relates to "elections and election rights." The text of the section was reported to us by the Committee on Elections and Election Rights and it has received the approval of a committee of the whole, which recommends that we concur. The proposed section reads, in pertinent part, as follows: All male persons of the age of twenty-one years or over "shall be entitled to vote at all elections…" Before we vote on the proposal, are there any motions? The chair recognizes the distinguished delegate from Whatcom County, Mr. Edward Eldridge.

Mr. Eldridge: I move to strike the word "male" from this section.

Chairman Hoyt: The motion is seconded. Fellow delegates, with your indulgence and that of the distinguished delegate from Whatcom County, Edward Eldridge, I wish to assert a prerogative of the presidency of this constitutional convention so that I may speak briefly about matters relevant to the motion before us. When I have concluded my remarks I will gladly yield to Mr. Eldridge so that he may speak for as long as he wishes in support of his motion to strike the word "male" from the section under consideration.

The issue presented by this motion is one that has been of significant interest to the residents of this territory since 1953 when Congress passed the Organic Act which separated us from Oregon Territory and created the Territory of Washington. In that Act, Congress provided that only white males of the age of twenty-one or older could vote or hold office, but it went on to say that the legislative assembly of the territory could alter those requirements for future elections. And, indeed, in the first session of the territorial legislature, which took place at the territorial capitol in Olympia in 1854, the venerable A.A. Denny from Seattle sought to gain approval of a measure giving women the right to vote. Alas, his effort failed.

In 1867, the election statutes were amended, ostensibly this was done to deny the franchise to former Confederate soldiers, but the amendment went on grant the right to all "white American citizens, twenty-one years of age." Mr. Eldridge, from whom we shall hear momentarily, was then Speaker of the House and he stated on the floor of the legislative assembly his view that women were American citizens and, thus, had the right to vote under this statute. Many women and men in the territory shared this opinion and a few women, most notably the very determined Mary Olney Brown, did go to the polls and cast ballots until the territorial legislature passed an act in 1871 which provided that women had no right to vote except in school elections. Somewhat surprisingly, this action by the legislature followed on the heels of an address to both houses of the territorial legislature by the renowned suffragist Susan B. Anthony.

At the first constitutional convention which took place in Walla Walla in 1887, this issue was before the delegates as it is today. The delegates there heard from prominent suffragists who urged that the proposed constitution contain a provision affording women the right to vote. The delegates did not so provide in the proposed constitution but did agree, overwhelmingly, to submit women's suffrage as a separate proposition to be voted on by the electorate at the time they voted on the proposed constitution. As you know, the voters ratified the constitution but rejected women's suffrage by a three-to-one margin. The ratification, though, was all for naught because, as you know, Congress declined to grant us statehood at that time.

In 1883, the territorial legislature again granted women the right to vote in "all elections." By implication, this suggested that women could sit on grand juries since another section of the territorial code made all qualified electors…competent to sit on grand juries. And indeed, precisely this question was presented by one Mollie Rosencrantz in her appeal in 1884 to the supreme court of this territory, a court on which I had the honor to sit from 1879 to 1887. Mollie Rosencrantz, you may recall, was convicted at a trial which took place in the Third Judicial District holding court in Tacoma. The charge against her was keeping a house of ill fame. She claimed on appeal that her conviction should be overturned because a woman sat on the grand jury that had indicted her. I am proud to say that I wrote an opinion for the court saying that the law was clear and that women were eligible to sit on grand juries because they were electors. I was joined by Judge S.C Wingard. Judge George Turner, who you know is a delegate to this convention and chair of the standing committee on the judicial department, wrote a dissent.

Two years later, a similar challenge was brought by a man by the name of Harland, who had been convicted of conducting a swindling game called "21." I did not sit on that appeal at the territorial supreme court because I had actually presided over Harland's trial which took place in Tacoma and thus I was recused. Regrettably, the court's decision was to reverse my denial of Harland's challenge to the indictment as well as his motion to arrest the judgment. Judge Turner, who as I say dissented in the *Rosencrantz* case, now wrote for a majority, which overturned the law of the territory extending the franchise to women. In doing so, it held that the 1883 act granting the franchise to women violated the Organic Act of the territory because the title of the act did not adequately express the subject of the legislation. Judge Roger Greene dissented.

The territorial legislature of 1887-88, which had been elected by both male and female voters, was not pleased with this ruling and was determined to reinstate women's suffrage and so it did. However, its action again came before the territorial supreme court, this time in the case of *Bloomer v. Todd.* That case, as most of you will recall, excited a great deal of attention. The suit brought by a woman by the colorful name of Nevada Bloomer, who claimed that she had been denied the right to vote in a municipal election in Spokane Falls. Although this case squarely presented the issue of whether only male inhabitants of the territory should be afforded the right to vote, the case appeared to have been contrived. I say that because Mrs. Bloomer was the wife of a saloon owner and Mr. Todd, who was one of the defendant election judges, was a beer bottler who supplied beer to Mr. Bloomer. It is well known, I believe, to us all that those in the liquor trade generally deplore the thought of women voting because they believe that they will favor laws prohibiting alcohol. But contrived or not, the case was before the territorial supreme court and the opponents of women's suffrage succeeded in convincing it to strike the statute down on grounds that Congress must have intended in the Organic Act to limit the franchise to male citizens. Therefore, the court said, the legislature "had no power to enfranchise women"—a somewhat surprising result in light of the language in the Organic Act specifically empowering the territorial legislature to alter the all-male voting requirement. I was no longer on the court when the *Bloomer* case was decided and neither was Judge Turner. Interestingly though, George Turner appeared as an attorney and argued the case for the prevailing party. Be that as it may, in light of this unfortunate case, it is clear that at present time women may not vote in territorial elections.

With this background in mind, the question before us now, as we stand on the eve of achieving long awaited statehood is this: should we provide in the Constitution that we are drafting that women can vote? If we do and the Constitution is approved by the voters and by Congress, the question will likely be settled forever. If we don't, but we achieve statehood, I suspect that it will not be long before the Constitution is amended to provide women the right to vote. Those of you who know me, know that throughout my public career I have been a strong advocate for women's suffrage. But delegates, I am an even more fervent advocate for statehood and I am fearful that if the proposed constitution has a provision that affords women the right to vote—a proposal that after all will only be voted upon by men—the Constitution will not receive approval of the voters. This is unfortunate, but in my view, a reality and unless we become a state, we can never

completely control our own destiny, what with the Territorial Supreme Court ruling that women can never have the right to vote in the Territory because of the Organic Act. Therefore, it is with a sad heart that I must tell you that I cannot support Mr. Eldridge's motion to strike the word "male" from the section under discussion. Rather, I would favor submitting the suffrage issue to the voters, as a separate article, at the election at which they are called upon to ratify the proposed constitution. I would even favor granting women the right to vote on that issue and permitting the Legislature to again submit women's suffrage to the voters at a future time, if it is disapproved at the time we vote upon the Constitution.

I do not, though, favor the proposal by Mr. Eldridge and would urge you to think carefully about the implications of a vote in favor of this motion.

Mr. Eldridge:

Chairman Hoyt: We will now vote. All in favor of the motion to delete the word "male" from the proposal say aye. All opposed say no. The motion is defeated fifty votes to eight.