

Gender Remade

*Citizenship, Suffrage, and Public Power in the New Northwest,
1879–1912*

Gender Remade explores a little-known experiment in gender equality in Washington Territory in the 1870s and 1880s. Building on path-breaking innovations in marital and civil equality, lawmakers extended a long list of political rights and obligations to both men and women, including the right to serve on juries and hold public office. As the territory moved toward statehood, however, jury duty and constitutional co-sovereignty proved to be particularly controversial; in the end, “modernization” and national integration brought disastrous losses for women until 1910, when political rights were partially restored. Losses to women’s sovereignty were profound and enduring – a finding that points not to rights and powers, but to constitutionalism and the power of social practice as Americans struggled to establish gender equality. *Gender Remade* is a significant contribution to the understudied legal history of the American West, especially the role that legal culture played in making the passage from territory to statehood.

Sandra F. VanBurkleo is Associate Professor of History at Wayne State University.

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SANDRA F. VANBURKLEO

Wayne State University



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*Dedicated to past and present graduate advisees
at Wayne State University
whose words and ideas remake the world*

Contents

<i>List of illustrations</i>	<i>page</i> x
<i>Acknowledgments</i>	xi
<i>Periodical abbreviations</i>	xvii
1 “We are kings and queens”: Introduction	I
2 “She does not go into utter slavery”: Toward equality and co-sovereignty	2 I
3 “Equal rights with man in every respect”: Practicing mixed-sex democracy	56
4 “A compound creature of the statute”: Jury duty and social disintegration	99
5 “A double head in nature is a monstrosity”: Internecine warfare	145
6 “Fraternalism permeates the atmosphere”: Remaking gender and public power	199
7 “We contemplate no sweeping reforms”: Constitutionalizing the home vote	254
8 “Every woman is a law unto herself”: Rights, obligations, and legitimacy	288
<i>Afterword: A bibliographic commentary</i>	309
<i>Index</i>	327

Illustrations

2.1	Chief Justice Roger Sherman Greene	<i>page</i> 26
2.2	Abigail Scott Duniway	43
3.1	Associate Justice George Turner	91
5.1	Governor Eugene Semple	169
6.1	Workers, Washington Paper Box Factory, appellants in <i>Somerville v. State</i> (1912)	248
7.1	Emma Smith DeVoe	259
7.2	May Arkwright Hutton	261
7.3	Mixed-Sex Jury, Whatcom County Superior Court, September, 1911	279
7.4	Cartoon, <i>Life Magazine</i> , October 30, 1919, “Ladies of the Jury –!”	285

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Graduate School and Office for Research, department head Marc Kruman, and the Humanities Center. Together, the College of Liberal Arts and Sciences; the Department of History; and the Gender, Sexuality, and Women's Studies Program subsidized illustrations.

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Some debts can be settled only by writing good books. Decades later, I recall the many times and ways in which Paul L. Murphy pushed his graduate advisees away from undue fascination with black-letter law toward constitutional politics, law's moral deposits, and, most of all, law's many faces, only one of which takes a woman's form in New York harbor. When I last walked and talked with him at a conference in Houston, he claimed to be thrilled that I had moved once again in directions unlike his own – and then he was gone. But

Acknowledgments

xiii

memory keeps us alive, much as books do – as Paul said in 1996, “Your books will outlive you by at least a century” – and so I name him again. In addition, my best buddy, Julie C. Larson, makes it possible to persist, despite all manner of trouble, by sensing what I need (“Should I get on a plane?”) and when she should prod (“When are you going to retire?”).

Even harder to thank are the scholars whose work informs what I’ve done here. Often, a book or article shoves what we’re doing in a fresh direction, yet these amazing gifts – often from strangers – appear as a kind of residue in footnotes. Years ago, Peter Goodrich’s mind-bending scholarship led me to consider how public memory entombs and refashions ancient practices. Dirk Hartog forced many of us to think about constitutionalism’s many layers and expressions; Chris Tomlins remade the concept of legalities and provided fresh ways to think about what happens in unfamiliar places. Carole Pateman’s *Sexual Contract* shattered my understanding of liberalism. A chapter in Calvin Trillin’s *Killings* – an exploration of customary Appalachian responses to certain homicides – haunts me to this day. Like Oliver Wendell Holmes, I have not abandoned legal science altogether, but I have been exposed to the great outdoors more fully than in my youth.

Archivists and librarians contributed decisively with their professionalism, friendship, and deep knowledge of holdings. The now-retired David Hastings and his staff at the Olympia (main) branch of the Washington State Archive pushed the project into overdrive when it was little more than a possibility; David also opened doors at other archives and cheerfully lent support by mail and phone, long after my final visit. Most recently, Lupita Lopez speedily supplied information, a missing photocopy, and case-file photos. Capable helpers also emerged at the Bellingham, Ellensburg, Bellevue, Cheney, and Grays Harbor branches of the State Archive. Sympathetic archivists at the Ellensburg branch tolerated the photocopying and bulk mailing of case files to an extent never before witnessed on the premises. One staffer noted laconically that should Mount Hood bury collections beneath tons of lava, he would simply refer visitors to the archive’s Michigan branch. Personnel at University of Washington Special Collections and Microfilm Division, Western Washington University’s Center for Pacific Northwest Studies, the Washington State Historical Society, Washington State University Special Collections Division at Pullman, the photographic experts at the Whatcom County Historical Society in Bellingham (especially Jeffrey Jewell), the Library of Congress Manuscripts Division, Wayne State University Libraries, and University of Michigan Libraries, all aided the cause substantially. Robert Ellis of the National Archive found the case file for *Bloomer v. Todd* – a feat that I had not accomplished on site. Edward Nolan of the Washington State Historical Society unsuccessfully searched for images of two elusive women; Ashley Mead heroically intervened in other ways. I also thank librarian Jean Fisher of the Northwest Room, Tacoma Public Library, for unstinting efforts in pursuit of Zerelda N. McCoy, Henrietta Somerville, and others. Photographic experts at

the University of Washington, Special Collections, and at Washington State University, Special Collections, responded swiftly to last-minute pleas for help. To this day, nobody can find an image of the indispensable McCoy. Larry Cebula, Jeff Creighton, Anna Harbine, and Frank Oesterheld of Eastern Washington University (Cheney) and the Northwest Museum (Spokane) searched for images of May Arkwright Hutton and George Turner, assessed the value of unprocessed manuscripts, and provided an image of Turner. The marvelous staff at the Center for Pacific Northwest Studies at Western Washington University unearthed photographs as well as priceless judicial proceedings, wherein I found hard evidence that female jurors indeed had shut down courtrooms in two counties for the better part of a year.

Let me underscore the importance of these unsung professionals. Much of what appears in footnotes would never have emerged from boxes without their suggestions and elbow grease. Time and again, staffers greeted my questions and quite burdensome requests (“*How* many copies?”) with smiles, gladdened by the knowledge that I was using their collections. Nobody frowned – well, one staffer in Olympia *did* frown when I forgot to wash my hands. Without helpers thinking about what might lurk in old crates, case papers and jury rolls might have remained as clerks of court had left them a century ago. One hardy soul in Special Collections at Washington State in Pullman, Washington, responded to an appalling request (“I can tell you who wrote it and when, but I can’t tell you the collection name”) by finding the missing document, and hence the citation, in two days flat. The Secretary of State and special-collections departments of Washington’s universities and museums should be applauded roundly. I should add that genealogists eagerly offered assistance. I especially thank Spokane’s Charles Hansen, who helped me confirm that Nevada Bloomer existed (the name was too good to be true) and that she was indeed married to a saloon owner (also too good to be true).

And finally this: Before the book existed – indeed, when I still thought of the Washington story as a brief diversion from an “important” book about freedom of speech – my partner, Edward Martin Wise, who died without permission in October 2000, stumbled on the odd fact of female grand jurors in Gilded-Age Washington in an old case book on statutory titling, which led me to read territorial reports from cover to cover. He then said, “That’s too interesting to pass up. Why not go there for Thanksgiving break and see what’s going on?” I think of him as the book’s godfather, which partly explains why it took me so long to finish: I have been slow to learn that finishing is not synonymous with abandonment or forgetting. But, because I dedicated another book to his memory, I offer this one to my graduate advisees at Wayne State University. I also fulsomely thank my new partner, Larry Hart, for providing “flattes” (fake lattes), endless puns, and proofreading. Only Larry and a few others know how often I have been distracted or sequestered with knitting needles. I also thank my two brilliant lawyers, Stuart Sherman and David Brockman, and my CPA, Gayle Infeld, for saving my sanity in mid-book.

Acknowledgments

xv

It goes without saying that I accept full responsibility for mistakes and thick-headedness. State historians may well find naiveté or carpet-bagging: I'm a Midwesterner, after all, presuming to explain developments in a place with huge conifers, mountains that resemble the teeth of carnivorous animals, and a body of water considerably larger than any of the Great Lakes. Because colleagues cannot foresee what will be made of their offerings, they should be held blameless – unless I win prizes, in which case they should accompany me to the podium.

Periodical abbreviations

BBR	<i>Bellingham Bay Reveille</i>
BH	<i>Bellingham Herald</i>
CC	<i>Columbia Chronicle</i>
CP	<i>Chicago Post</i>
CT	<i>Chicago Tribune</i>
LAT	<i>Los Angeles Times</i>
LCB	<i>Lewis County Bee</i>
LE	<i>Leavenworth Echo</i>
LJ	<i>Labor Journal</i>
NN	<i>New Northwest</i> [Portland]
NYT	<i>New York Times</i>
OR	<i>Oregonian</i> (or) <i>Daily Oregonian</i> [Portland]
PH	<i>Pullman Herald</i>
PSWA	<i>Puget Sound Weekly Argus</i>
PSWC	<i>Puget Sound Weekly Courier</i>
SJI	<i>San Juan Islander</i>
SDPI, SPI	<i>Seattle Daily Post-Intelligencer</i> (or) <i>Seattle Post-Intelligencer</i>
SFC	<i>Spokane Falls Chronicle</i>
SFR, SR	<i>Spokane Falls Review</i> (or) <i>Spokane [Daily] Review</i>
SP	<i>Seattle Press</i> (or) <i>Seattle Daily Press</i>
SPT	<i>Seattle Press-Times</i>
SS	<i>Seattle Star</i>
ST, SDT	<i>Seattle Times</i> (or) <i>Seattle Daily Times</i>
TDL, TDT	<i>Tacoma Daily Ledger</i> (or) <i>Tacoma Daily Tribune</i>
TT	<i>Tacoma Times</i>
WJ	<i>Woman's Journal</i>
WP	<i>Washington Post</i> (Washington, DC)
WR	<i>Whatcom Reveille</i>

WS	<i>Washington Standard</i>
WWS	<i>Walla Walla Statesman</i>
WWU	<i>Walla Walla Union</i>

[Titles cited fewer than three times have not been abbreviated. Before 1890, newspapers were irregularly paginated and titled; I give page numbers where they were available and ignore title variations such as Daily or Weekly, when variations appear erratically].

REPOSITORIES AND ABBREVIATIONS

Newspapers published in Washington Territory and State are widely available in microform and in digital formats, as at the Washington State Library and Historical Society, both in Tacoma; the University of Washington Library in Seattle; Central Washington University, Ellensburg; or Washington State University, Pullman. For that reason, I omit repository names unless I used originals or clippings. The *Woman’s Journal* is available on microfilm at Hatcher Graduate Library, University of Michigan. The Washington Historical Society offers a useful online newspaper collection. New York, District of Columbia, California, and Illinois titles can be found in historical-newspaper digital collections. I do not use the term “sic” to indicate spellings or usages unlike our own.

The Washington State Archives’ holdings are scattered across the state. Records of the territorial courts, early state supreme court, and attorney general’s office are now stored largely in Olympia at the main branch; other judicial records are housed at other branches. Archivists provide expert advice about the archival network and its digitized finding aids. I use these abbreviations:

PNC	Center for Studies of the Pacific Northwest (Western Washington University)
PSRA	Puget Sound Regional Archives, Bellingham
UWSC	University of Washington Special Collections (Seattle)
WSA-Belle	Washington State Archives, Bellevue
WSA-C	Washington State Archives, Cheney
WSA-E	Washington State Archives, Ellensburg
WSA-GH	Washington State Archives, Grays Harbor
WSA-O	Washington State Archives, Olympia (main branch)
WSHS	Washington State Historical Society
WSU-SC	Washington State University Special Collections (Pullman)