

# the ADVOCATE

Volume 63 | No. 11/12

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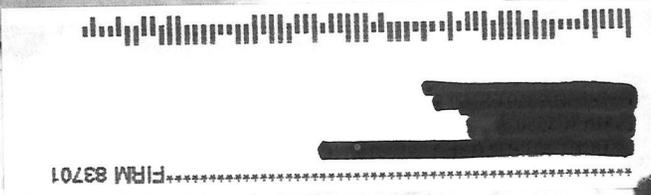
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Women voters cast ballots in 1917. Photo credit: Idaho Women 100 Project, Library of Congress.

## Early Women Lawyers Who Helped Secure the Right to Vote in Idaho

Debora Kristensen Grasham

Women in Idaho have enjoyed the constitutional right to vote since 1896, long before the passage of the 19<sup>th</sup> Amendment to the United States Constitution in 1920, which guaranteed women the right to vote nationwide. Early historians claimed that the right to vote “was given to the women of Idaho with comparatively little urging on their part [. . .] The pioneer women had born an arduous part in the development of the Northwest. This the leading men not only chivalrously acknowledged, but they desired to have the further co-operation and interest of the women.”<sup>1</sup>

More recent historians take issue with this account, noting “[t]he success of the women’s suffrage amendment in Idaho was more the result of efficient grassroots organizations and the vagaries of Idaho

politics than male beneficence or a spirit of western equality.”<sup>2</sup> Nonetheless, it is clear that Idaho suffragists succeeded relatively early compared to their contemporaries elsewhere.

How did Idaho succeed where other states had failed? Many point to suffragists’ successful efforts to de-politicize the campaign by securing support for the amendment from all political parties and separating the issues of temperance and suffrage. Others point to a handful of individuals who were particularly helpful in the campaign for suffrage.<sup>3</sup>

Such key personnel included nationally known suffragists from the National American Woman Suffrage Association (“NAWSA”), William Balderston, the editor of the *Boise Statesman*, and prominent men (or the wives of such men) whose work on the suffrage campaign is well

documented.<sup>4</sup> They also included two of Idaho’s earliest women lawyers – Helen L. Young of Osburn and Kate E. Feltham of Caldwell – whose work is less well known. This article hopes to shed some light on the efforts of these pioneering women lawyers to secure women the right to vote in Idaho.

To begin, it is important to understand the state of political affairs in the territory of Idaho in the late 19<sup>th</sup> Century.

### The right to vote in the Territory of Idaho

During its territorial days, Idaho’s first legislature limited the right to vote to white, male residents over 21 years of age.<sup>5</sup> The requirement that voters must be white was removed in 1874<sup>6</sup> after the passage of the 15<sup>th</sup> Amendment prohibiting the Unit-

ed States, or any state, from denying the right to vote “on account of race, color, or previous condition of servitude.” Around the same time, Idaho’s neighbors began extending suffrage to women: the Wyoming Territory did so in 1869, and Utah in 1870. Perhaps influenced by our neighbors, in January 1871, Dr. Joseph Williams Morgan introduced the first suffrage bill in the Idaho Legislature.<sup>7</sup>

The bill made it to third reading in the House, but was defeated on a roll call vote

## Idaho Constitutional Convention consideration of Women’s Suffrage

On July 4, 1889, 72 delegates selected from the Territory’s 18 counties met in Boise to convene the Idaho Constitutional Convention. “Nearly half of the delegates sent to the convention were lawyers,” and all were men.<sup>14</sup> William Claggett, the “Silver-Tongued Orator of the West” and likely the most well-known mining lawyer

vention and delegates were invited to an ice cream social.<sup>20</sup>

The second woman to address the constitutional convention on suffrage was Abigail Scott Duniway, who presented a “striking contrast” to Skelton.<sup>21</sup> Duniway was the publisher of *The New Northwest*, a weekly newspaper devoted to women’s rights, and a tireless advocate for women’s suffrage. “Between 1876 and 1895 she gave 140 public lectures, at the same time securing subscribers to her paper . . . and distributing literature. She traveled 12,000 miles by river, rail, stage and buckboard and canvassed many a mile on foot.”<sup>22</sup>

Duniway’s speech at the convention, which lasted about an hour – nearly four times longer than Skelton’s – was “by many criteria the best oration of the entire convention.”<sup>23</sup> Unlike the WCTU, Duniway did not tie the issue of women’s suffrage with temperance. Representing NAWSA, which specifically refused to tie the two issues together, Duniway, instead, advocated for women’s suffrage as a matter of right as an American citizen.<sup>24</sup>

Claggett and a majority of the members reportedly favored women’s suffrage, but eventually “yielded to the fears of the minority that it would endanger the acceptance of the constitution by the [male] voters.”<sup>25</sup> Thus, women were not given the right to vote when Idaho was admitted to the Union in 1890. Idaho constitutional scholar Dennis Colson notes, “[t]here were several controversies at the convention where the delegates were out of step with the voters of the day. Women’s suffrage was one of those.”<sup>26</sup>

## Efforts to amend the new constitution

Having failed to gain the right to vote at statehood, suffragists turned their attention to securing a constitutional amendment. This, of course, required a bill to be passed by two-thirds majority in both the House and Senate, and then approved by the people (male voters) of Idaho. The first attempt to pass such a bill, in 1893, lost by only one vote in the lower house. The vote was 23-12 (two-third majority needed), with one member absent.<sup>27</sup>

Although there was “pronounced sentiment” in favor of women’s suffrage, there

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“*The committee on ‘Election and the Right of Suffrage’ was chaired by James Beatty – who later served 17 years as Idaho’s first federal district judge.*”<sup>16</sup>

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of 11-11.<sup>8</sup> Years later, James H. Hawley, a legislator at the time and later prominent lawyer and Governor of Idaho, noted that if Dr. Morgan’s suffrage bill had passed the House, it “undoubtedly” would have received approval from the Senate and the Governor.<sup>9</sup>

Despite this initial setback, the territorial legislature did pass laws granting women increasing political power, particularly in the areas of schools and education. For instance, in 1879, a bill was passed that permitted unmarried women who were taxpayers to vote at school tax elections.<sup>10</sup> And, in 1885, women were allowed to vote in all school elections and permitted to hold elected school offices.<sup>11</sup>

That same year another women’s suffrage bill was introduced in the House but was defeated 7-15 with “very little notice in the press.”<sup>12</sup> In 1889, the territorial legislature endorsed the election of female county school superintendents.<sup>13</sup> But, as Idaho approached statehood, women were otherwise prohibited from participating in elections at all levels of government.

in the territory, served as President of the Convention and wielded great influence.<sup>15</sup>

The committee on “Election and the Right of Suffrage” was chaired by James Beatty – who later served 17 years as Idaho’s first federal district judge.<sup>16</sup> The committee took a conservative approach to women’s suffrage and recommended that the existing territorial privileges be extended to statehood but no further.<sup>17</sup>

Two women came to the convention to argue for full suffrage, albeit in different manners and for different reasons. The first was Henrietta Skelton, President of the Idaho chapter of the Women’s Christian Temperance Union (“WCTU”). The WCTU sought to join prohibition with the issue of suffrage because its members believed “that gaining the vote would allow them to better pursue their goals” of prohibition.<sup>18</sup> Skelton made a “relatively short speech in support of the WCTU requests, and made it clear temperance was their real concern.”<sup>19</sup> When she was done, Skelton presented a bouquet to the con-

had been little organized effort to secure the ballot for women up until this time.<sup>28</sup> Instead, the work turned to political parties and the “real campaign began at the time of the assembling of the Republican State Convention in 1894.”<sup>29</sup> Led by William Borah, the Republican party adopted a resolution supporting women’s suffrage. The Populist party passed a similar resolution.<sup>30</sup> The election of 1894 placed Republicans in “overwhelming control” of the Legislature. Accordingly, in January 1895, the Idaho Senate voted 16-0 and the House 33-2 to include a woman suffrage amendment on the ballot for the November 1896 election.<sup>31</sup>

Duniway hoped to lead the campaign efforts in Idaho, but her husband’s failing health and efforts at the national level combined to keep her from doing so.<sup>32</sup> Instead, Carrie Chapman Catt, NAWSA Organizing Committee Chair, directed Emma Smith DeVoe to go to Idaho in the summer of 1895 to garner support for the amendment. NAWSA sought to “maintain good relations” with WCTU (whom Duniway had rebuked at the Constitutional Convention) and not identify with any political party as they organized suffrage clubs across Idaho.<sup>33</sup> To that end, in 1895, the Idaho Equal Suffrage Association was organized and came to include approximately 1,000 women at a time when the adult female population was approximately 15,000.<sup>34</sup> Two of those women were Helen Young and Kate Feltham.

### **Helen Young: Idaho’s first woman admitted to the Bar**

Helen Louise Nichols Young was born in 1862 in Lansing, Michigan.<sup>35</sup> After her mother married an attorney named Daniel Waldron, the family moved west in 1870, first to San Francisco and then to the mining towns of North Idaho. Waldron set up his law practice in Osburn and Young began studying law in his office as early as 1885. Young married Orville Young in 1887 and began teaching in the public schools of Shoshone County the next year.

Young’s first reported brush with Idaho’s legal system came in 1892, when a



collection action was brought against her husband. After the bank prevailed against Orville, it sought to collect on its judgment by attaching and ultimately selling Young’s separate property, two lode-mining claims in Shoshone County.

Young – likely with the help of her step-father – hired prominent North Idaho attorney Weldon Heyburn, chair of the standing committee on the judiciary at Idaho’s Constitutional Convention in 1889 and later United States Senator, to represent her in a quiet title action challenging the sale. Heyburn argued that the bank’s attachment and sale were improper, as the claims had been deeded as a gift to Young and were, therefore, her separate property “free from the control of her husband.” The Idaho Supreme Court agreed, and Young prevailed in her action.<sup>36</sup>

Eight months later Heyburn and an equally prominent North Idaho attorney W.W. Woods – also a delegate to the Idaho Constitutional Convention in 1889 and later one of Idaho’s first district court judges<sup>37</sup> – sponsored Young in her application for admission to practice law before the Idaho Supreme Court. At the time of Young’s application, Idaho statutes limited the admission of attorneys in Idaho to “white males.”<sup>38</sup> Nonetheless, on October 26, 1895, the Idaho Supreme Court, comprised of Chief Justice John T. Morgan, himself a member of the Constitutional Convention, Justice Isaac Sullivan, and Justice Joseph W. Huston, granted Young’s application for admission, making her the first woman admitted to the Idaho Bar.<sup>39</sup>

Months later, in the spring of 1896, two of NAWSA’s national organizers (Johns and DeVoe) came to Idaho to direct the state’s campaign. Given Young’s relative notoriety as a woman lawyer with prominent connections in the community, Johns recruited her to “take charge of north Idaho.”<sup>40</sup> Thereafter, Young was elected Vice President (as was Kate Feltham, *infra*) of the Idaho chapter of NAWSA and placed on its Press Committee.<sup>41</sup> By all accounts, Young took her obligations seriously and “was active in 1896 as lecturer, state association officer, and press committee member.”<sup>42</sup>

### **Kate Feltham: Idaho’s fifth woman admitted to the Bar**

Kate E. Neville Feltham was born

in 1859 in Adams, New York.<sup>43</sup> After graduating high school, Feltham was a teacher in Ackley, Iowa. In 1893, she moved to Nampa, Idaho and, on September 21, 1893, she married Lot Feltham. Lot served as Caldwell city attorney from 1892 to 1895. During this time, Feltham taught English at the College of Idaho and became active in the Caldwell community. Clearly a smart and engaged woman, years later Feltham would study law in her husband’s office and become Idaho’s fifth woman admitted to the Idaho Bar.<sup>44</sup>



Given her community involvement, Feltham was chosen to serve as the President of the Caldwell branch of the Idaho Equal Suffrage Association. In that capacity, she was invited to attend the first statewide meeting of suffrage delegates in Boise on November 20, 1895, to organize the Idaho Equal Suffrage Association.<sup>45</sup>

Although one delegate from each county in Idaho was invited, only eight counties responded. Feltham later noted that it was “a very quiet convention” because the eight delegates were not well acquainted, and “consequently there was not the confidence necessary to make this first meeting a perfect success.”<sup>46</sup> Feltham also noted the hesitancy of some because “the fact that many of the Boise ladies who were interested in calling the first meeting, were wives of prominent Republicans caused political leaders of other parties to look upon the movement as a Republican scheme.”<sup>47</sup>

Given this, some of the delegates worked to “counteract” such perception, which, according to Feltham, was “not well understood by the rest of the convention.”<sup>48</sup> Despite these challenges, the organization elected officers and, with the help of *Boise Statesman* editor William Balderston, was successful in adopting a model constitutional sent out by the NAWSA.<sup>49</sup> Feltham was elected to the Advisory Board.<sup>50</sup>

Despite these early efforts and good intentions, “[l]ittle was accomplished” in the winter of 1895-96, causing the national office of NAWSA to send Johns to Idaho in May 1896 to reorganize the state and local clubs and lecture and secure pledges from political party leaders.<sup>51</sup> Johns had the desired effect, and suffragists convened in

Boise on July 1, 1896, to “manage the final phase of the campaign.”<sup>52</sup> It was at this convention that both Young and Feltham were elected Vice Presidents and thereafter set about to ensure passage of the suffrage amendment in November 1896, giving “much time to the final drive.”<sup>53</sup>

## The election of November 1896

“[T]he suffragists were generally confident on election day,” having canvassed the state, given innumerable lectures, distributed thousands of leaflets, published hundreds of editorials, and garnered the support of all four political parties and 62 of the 65 newspapers in the state. Even so, they performed “heroic work”<sup>54</sup> on election day, handing out thousands of leaflets carrying the message, “[v]ote for the woman suffrage amendment,” including a group of women in Silver City who “stood all day, ankle-deep in snow, distributing the [leaflets] and urging the voters to cast their ballots in favor of the amendment.”<sup>55</sup> Enterprising suffragists also served coffee and sandwiches at the polls “to give the ladies an easier opportunity of approaching the voters on the amendment question.”<sup>56</sup>

The final tally was 12,126 for the amendment and 6,282 against.<sup>57</sup> To most people, this looked like a clear majority had passed the amendment. But the Board of Canvassers took a different approach. They held that the amendment had been defeated because 14,759 votes were needed to pass given that a total of 29,516 voters had voted in the election – which meant that more than one-third of the people who voted did not vote on the amendment. The Board argued that the Constitution required that an amendment receive approval by a majority of the electors, and 29,516 electors had voted. Accordingly, the Board declared that the amendment had been defeated.<sup>58</sup>

## It's not over: Election results challenged

Suffragists wasted little time in challenging the Board of Canvassers' decision. Kate Green, a suffragist from Nampa who had served on the statewide NAWSA Press Committee with Helen Young, served as the named plaintiff in an appeal of the

Board's decision filed with the Idaho Supreme Court. Green was represented by three of Idaho's most prominent attorneys at the time – James Hawley, William Borah, and Miles Tate – who volunteered their *pro bono* services.<sup>59</sup>

After hearing two days of argument, the same three justices of the Idaho Supreme Court who had admitted Helen Young in 1895 when Idaho law limited the practice of law to “white males” (Chief Justice John Morgan, Justice Isaac Sullivan, and Justice Joseph Huston), ruled unanimously in favor of Green.<sup>60</sup> The Court found that the Idaho Constitution required that a majority of voters who actually voted on an issue be counted for purposes of passage of the amendment and that those who did not specifically vote on the amendment cannot be assumed to have opposed it.

The Court pondered, “[i]s it not more reasonable, as well as more righteous, to say that in a matter about which they manifest such indifference their silence should be taken as assent?”<sup>61</sup> Accordingly, the Court held that the women's suffrage amendment was adopted “and has become a part of the constitution of the state of Idaho.”<sup>62</sup>

At least one historian aptly observed that “[t]he remarkably quick and favorable decision by the supreme court justices may have been due in part to the fact that their wives were suffragists.”<sup>63</sup> Regardless, the Court's decision, dated December 24, 1896, was surely a welcomed Christmas present for the suffragists of Idaho.

## Moving forward with voting rights secured

The total cost of the Idaho suffrage campaign was \$2,218.58, with \$980.29 raised outside of Idaho.<sup>64</sup> Clearly, the grassroots efforts of these minimally funded, yet well connected, suffragists paid off.

Both Young and Feltham continued to be actively involved in their communities and took advantage of their newly secured rights after passage of the suffrage amendment. Young returned to North Idaho and in 1900 was elected as County Superintendent of Public Instruction for Shoshone County.<sup>65</sup> The November 3, 1900, edition of *The Mullan Mirror*<sup>66</sup> reported on one of Young's campaign stops:

[T]he chairman introduced Miss Helen L. Young, a trim little lady, who in a few well chosen phrases pleaded as only a woman can plead for suffrage of her sex and liberal support of the ticket for the office of superintendent of schools. With gentlemanly instinct she was well received and retired wreathed in smiles dawned from a new hope.

Feltham returned to Caldwell where she was active in numerous community organizations and, after reading for the law in her husband's law office, was admitted to practice law on September 22, 1914, making her only the fifth woman admitted in Idaho.<sup>67</sup> Feltham practiced in Weiser for almost 30 years and shared an office with her husband (who she later divorced). In 1926, Feltham was elected to serve as prosecuting attorney for Washington County, the first woman to hold a prosecuting attorney position in Idaho.<sup>68</sup>

While Young and Feltham's individual efforts and gender-barrier-breaking accomplishments provided much needed role models to women in the late 1800s<sup>69</sup> and early 1900s, their collective effort to gain women the right to vote in Idaho created vast opportunities for Idaho women for many generations to come, both in the legal field and elsewhere.



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## Endnotes

1. HIRAM TAYLOR FRENCH, HISTORY OF IDAHO: A NARRATIVE ACCOUNT OF ITS HISTORICAL PROGRESS, ITS PEOPLE, AND ITS PRINCIPAL INTERESTS 515 (Chicago: Lewis Publishing Company 1914).
2. Rebecca Scofield & Katherine G. Aiken, *Balancing Act: Idaho's Campaign for Women's Suffrage*, 30 W. LEGAL HISTORY 34–35 (2019).
3. T.A. Larson, “The Woman's Rights Movement in Idaho,” 16 *Idaho Yesterdays* 2, 18–19 (Spring 1972).
4. *Id.*
5. An Act Relative to Elections, 1864 Idaho Sess. Laws 560.
6. An Act Relative to Elections, 1874-75 Idaho Sess. Laws 684.
7. DENNIS C. COLSON, IDAHO'S CONSTITUTION: THE TIE THAT BINDS

152 (SPEC. LEGIS. ED. 2003).

8. *Id.* "Not one of the eleven who voted for suffrage in 1871 was returned to the next legislature, and the subject lay dormant for many years." T.A. Larson, *supra* note iii, at 3–4.
9. T.A. Larson, *supra* note iii, at 3.
10. An Act to Establish a Public School System, 1879 Idaho Sess. Laws 21.
11. An Act to Amend an Act to Establish a Public School System, 1885 Idaho Sess. Laws 194.
12. T.A. Larson, *supra* note iii, at 5.
13. An Act to Remove the Disqualifications of Persons Elected to the Office of County Superintendent of Public Schools, 1889 Idaho Sess. Laws 13–14.
14. COLSON, *supra* note vii, at ix, 7 & 253–54 (Appendix A).
15. *Id.* at ix & 9.
16. *Id.* at ix & 257 (Appendix B).
17. *Id.* at 153.
18. Scofield & Aiken, *supra* note ii, at 34–35.
19. COLSON, *supra* note vii, at 153.
20. *Id.* at 154.
21. *Id.*
22. SUSAN B. ANTHONY & IDA H. HARPER, HISTORY OF WOMAN SUFFRAGE, VOL. 4: 1883-1900, CH. XXXVI: IDAHO, at 589 (Rochester, NY, 1902) [hereafter "ANTHONY HISTORY"].
23. COLSON, *supra* note vii, at 154.
24. Scofield & Aiken, *supra* note ii, at 35–37.
25. ANTHONY HISTORY at 589. See also T. A. Larson, *supra* note iii, at 7.
26. COLSON, *supra* note vii, at 157.
27. T.A. Larson, *supra* note iii, at 8.
28. Skelton, who had argued for suffrage at the Idaho Constitutional Convention, urged Idaho unions to form franchise departments, but "there was little interest among WCTU members for suffrage work." Scofield & Aiken, *supra* note ii, at 37.
29. ANTHONY HISTORY at 590.
30. *Id.*

31. Scofield & Aiken, *supra* note ii, at 37–38.

32. *Id.* at 38. See also T.A. Larson, *supra* note iii, at 9–10.

33. *Id.* at 38.

34. *Id.*

35. For a detailed history of the life of Helen L. Young, see DEBORA K. KRISTENSEN, THE FIRST 50 WOMEN IN IDAHO LAW at 1–4 (Idaho State Bar, rev. ed. 2005).

36. See *Young v. First Nat'l Bank*, 4 Idaho 323, 39 P. 557 (1895).

37. Woods likely knew Young through his wife, Melvina "Mell" Woods, an active suffragist and early officer in Idaho's statewide suffrage movement. See T.A. Larson, *supra* note iii, at 10; Scofield & Aiken, *supra* note ii, at 41.

38. See *Application of Kaufmann*, 69 Idaho 297, 305, 206 P.2d 528, 532 (1949).

39. See KRISTENSEN, *supra* note xxxv, at 1–2. See also *Kaufmann*, 69 Idaho at 305, 206 P.2d at 532.

40. *Id.* at 2.

41. T.A. Larson, *supra* note iii, at 11.

42. *Id.* at 18.

43. For a detailed history of the life of Kate E. Neville Feltham, see KRISTENSEN, *supra* note xxxv, at 9–10.

44. See *infra*.

45. T.A. Larson, *supra* note iii, at 10.

46. *Id.* at 10–11.

47. *Id.* at 11.

48. *Id.*

49. *Id.* at 10.

50. *Id.*

51. *Id.* at 11.

52. *Id.*

53. *Id.* at 18.

54. ANTHONY HISTORY at 593.

55. *Id.*

56. T.A. Larson, *supra* note iii, at 14. The Boise suffrage club caused some trouble when they passed out 3,000 copies

of the amendment near the polls on election day because some voters used that handout instead of the official ballot to vote. Votes on these copies were disqualified and not counted in the final tally. *Id.*

57. *Id.*

58. See generally *id.*

59. *Id.*

60. *Green v. State Bd. of Canvassers*, 5 Idaho 130, 47 P. 259 (1896).

61. *Id.* at \_\_\_, 47 P. at 260.

62. *Id.* Chief Justice Morgan wrote a lengthy concurrence analyzing the many authorities cited by the parties, concluding "[i]t is clear that the decided weight of authority in such cases is that the proposition is decided in the affirmative if it receives a majority of all the voters cast upon the question." *Id.* at \_\_\_, 47 P. at 263 (Morgan, C.J., concurring).

63. T.A. Larson, *supra* note iii, at 15.

64. *Id.* That amount equals approximately \$68,648.68 in 2020 dollars. See generally <https://www.in2013dollars.com/us/inflation/1896?amount=2218.58>.

65. KRISTENSEN, *supra* note xxxv, at 3.

66. A copy of this issue of *The Mullan Mirror* is available on microfilm at the Idaho State Archives.

67. Bertha Stull Green of Mountain Home was the second woman admitted to practice law in Idaho in 1904; Della M. Gregory Thomas of Shoshone was admitted in 1907 as the third woman attorney in Idaho; and Margaret Beall Connell of Utah was admitted in Idaho as its fourth women attorney in 1911. KRISTENSEN, *supra* note xxxv, at 5–8.

68. *Id.* at 9–10.

69. In 1898, the first general election after suffrage, women accounted for approximately forty percent (40%) of the vote. ANTHONY HISTORY at 594. In that election, three women were elected to the Idaho House of Representatives: Clara Campbell of Boise, Hattie Nobel of Idaho City, and Mary A. Wright of Rathdrum. KRISTENSEN, *supra* note xxxv, at 102 (Milestones for Women In Idaho Law). In addition, Permeal French was elected State Superintendent of Public Instruction in 1898. See MERLE WELLS & ARTHUR HART, IDAHO: GEM OF THE MOUNTAINS at 50 (1985).

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