

Think About!

- During today's lessons think about the following question:
- What kind of a world would we live in if women were not given rights?

A New World





Irene Parlby



Louise McKinney



Nellie McClung



**Henrietta Muir
Edwards**



Emily Murphy

1929 Persons Case

- In legal terms it was called *Edwards v. A.G. of Canada* and it was a constitutional ruling that established the right of women to be appointed to the Senate
- The case was started by the Famous Five – a group of prominent women activists
- In 1928 the Supreme Court of Canada ruled that women were not “persons” according to the British North America Act (now called the Constitution Act, 1867) and were therefore ineligible for appointment to the Senate
- However, the Judicial Committee of the Privy Council reversed the Court’s decision on 18th October 1929
- The Persons Case enabled women to work for change in both the House of Commons and the Senate and meant that women could no longer be denied rights based on a narrow interpretation of the law

1929 Persons Case

- By 1927, most Canadian women were able to vote in federal elections and in provincial elections – except in Quebec
- Women first achieved the vote and the right to hold public office in Manitoba in 1916
- Saskatchewan – March 1916 / Alberta – April 1916
- British Columbia and Ontario – April 1917
- Nova Scotia – April 1918
- Prince Edward Island – May 1922
- New Brunswick – gave women the vote in April 1919 but not until March 1934 could women run for provincial office

1929 Persons Case

- Quebec women had to wait until 1940 to be able to vote in provincial elections
- Newfoundland, which did not join Confederation until 1949, gave women the vote in April 1925
- In May 1918, the majority of Canadian women over the age of 21 became eligible to vote in federal elections
- In 1921, Agnes Macphail became the first woman elected to the House of Commons
- However, the Senate was still closed to women and this was due to interpretation of Section 24 of the Constitution Act, 1867

1929 Persons Case

- Section 24 of the Constitution Act, 1867 read:
- “The governor general shall from time to time, in the Queen’s name, by instrument under the Great Seal of Canada, summon qualified persons to the Senate; and, subject to the provisions of this Act, every person so summoned shall become and be a member of the Senate and a senator.”
- Qualified person meant that you had to be 30 years or older, own property worth at least \$4000, and reside in the province of your appointment
- But the Act did not specify if “persons” meant both men and women
- And in 1867 “persons” was legally viewed as referring to men only
- Therefore, the government had only ever interpreted the word “persons” to mean men

1929 Persons Case

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1929 Persons Case

- Five different governments from 1917 to 1927 suggested that, even though they wanted to, it was impossible to appoint women to the Senate due to Section 24
- In 1923 the then Prime Minister William Lyon Mackenzie King asked Senator Archibald McCoig to propose an amendment to the Act; but the proposal was never made
- To activists the government was using Section 24 as an excuse to stall and keep women out of the Senate
- In August 1927 Emily Murphy, Nellie McClung, Irene Parlby, Louise McKinney, and Henrietta Muir Edwards met to create a petition about the interpretation of the word “persons”

1929 Persons Case

- The Famous Five signed the letter on the 27th August 1927 (almost 94 years ago) and the following were the two questions that they asked the Supreme Court to rule on”
- 1. Is power vested in the Governor-General in Council of Canada, or the Parliament of Canada, or either of them, to appoint a female to the Senate of Canada?
- 2. Is it constitutionally possible for the Parliament of Canada under the provisions of the *British North America Act*, or otherwise, to make provision for the appointment of a female to the Senate of Canada?
- The Supreme Court of Canada was also directed to consider the following question:
- “Does the word ‘Person’ section 24 of the *British North America Act, 1867*, include female persons?”

1929 Persons Case

- The Supreme Court ruled unanimously on 24th April 1928 that women were “not persons” under Section 24 and were therefore ineligible for appointment to the Senate
- The Supreme Court consisted of Chief Justice Francis Alexander Anglin, Mr. Justice Lyman Duff, Mr. Justice Pierre-Basile Mignault, Mr. Justice John Lamont, and Mr. Justice Robert Smith
- The decision was based on the premise that the BNA Act had to be interpreted in exactly the same way as when the Act was written in 1867 – this still happens in law; however, sometimes courts rule that wording is too old and must be updated or interpreted in another way

1929 Persons Case

- The Famous Five were disappointed but not defeated
- They chose to appeal to the Judicial Committee of the Privy Council in London, England - this was Canada's highest court of appeal until 1949
- There was a lot of deliberation and, finally, on the 18th October 1929 the Privy Council reversed the Supreme Court ruling and declared that the word "persons" did include women, and that women were eligible to be summoned to, and become members of, the Senate of Canada
- Lord Sankey remarked – "exclusion of women from all public offices is a relic of days more barbarous than ours [...] and to those who ask why the word [persons] should include females, the obvious answer is why should it not?"
- The ruling was consistent with other changes brought about by the women's suffrage movement

1929 Persons Case

- The first woman sworn in as Canada's first female senator was Cairine Wilson on the 15th February 1930
- The implications of the Persons Case were far-reaching
- Women were now legally person and could not be denied rights based on old or narrow interpretations of the law
- Women could work for greater rights and opportunities through the Senate and the House of Commons
- The Persons Case was a significant moment in history, even though the struggle for equality continues to this day
- <https://www.youtube.com/watch?v=SdbG6ElHrbs>
- <https://www.youtube.com/watch?v=njAO38Og1-k>

1929 Persons Case – Resources

- <https://www.thecanadianencyclopedia.ca/en/article/persons-case>
- <https://www.thecanadianencyclopedia.ca/en/article/famous-5>
- <https://www.thecanadianencyclopedia.ca/en/article/agnes-macphail>
- <https://www.thecanadianencyclopedia.ca/en/article/cairine-reay-wilson>



Group Work

- Watch the following video:
 - https://www.youtube.com/watch?v=if_pyx5dm9Y
 - Name one thing new you learned
 - Discuss why you think that men did not want women to have the right to vote and the right to hold office at all political levels
 - You have 15 minutes for this
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