

The Famous Five

"Women are persons in matters of pains and penalties, but are not persons in matters of rights and privileges."



From left to right: Louise McKinney, clasping hands in delight; Emily Murphy stands beside the empty chair and beckons visitors to join the celebration; Nellie McClung holds the newspaper with the headline "Women are Persons!"; Irene Parlby; and, Henrietta Muir Edwards, toasting with a tea cup.

"Does the word 'persons' in Section 24 of the British North America (BNA) Act of 1867 include female persons?" In 1928, the Supreme Court of Canada was asked that question. The response was "No." Women were not persons.

At the time, women could vote in federal elections and in some provincial elections. They could hold office in provincial government and they could be Members of Parliament; but they could not become Senators.

In 1916, this situation came to the attention of Judge Emily Murphy, the first woman magistrate in the British Empire. This position sharpened her awareness of the potential power for social reform held by women's organizations.

Judge Emily Murphy, the first woman magistrate in the British Empire, wanted to become Canada's first woman Senator, but the BNA Act said women were not persons, and therefore, were not eligible. She sought advice from lawyers to resolve this matter in the courts. She was advised that any five persons could initiate an appeal to the Supreme Court of Canada; so she invited four other women to join her petition. The media dubbed them "The Famous Five."

The Government of Canada supported the appeal to the Judicial Committee of the Privy Council of England, Canada's highest court of appeal at the time. In their judgement on October 18, 1929, the

Lords noted that Canada was growing and changing, so must its constitution grow and change. Therefore, they "unanimously came to the conclusion that the word 'persons' in Section 24 includes members of the male and female sex." It came to be known as the "Persons" Case.

This case was a landmark in women's struggle for equality. Among other things, it meant women could be summoned to the Senate, a reform for which the Federated Women's Institutes of Canada (FWIC) had pressed.

"The Famous Five" were women from Alberta, whose many individual achievements greatly improved life for women and children in Canada.

Emily Murphy – She was a prominent suffragist and reformer, the first female magistrate in the Commonwealth and organizer of the "Persons" Case." She wrote books and articles under the name of Janey Canuck.

Louise McKinney – She was an organizer and supporter of the Women's Christian Temperance Union. She was the first woman in the Legislative Assembly in the Commonwealth, after being elected in Alberta in 1917. This was the first election in which women could vote or run for office.

Nellie McClung – She was a novelist, reformer, suffragist and famed Canadian journalist, who led the fight to enfranchise North American women, beginning with Western Canadian women in the early 1910s. McClung was a Liberal MLA in Edmonton from 1921 to 1926, the first female Director of the Board of Governors of the Canadian Broadcasting Corporation (CBC) (1936) and a delegate to the League of Nations in Geneva in 1938.

Henrietta Muir Edwards – She was an artist and legal expert. She published Canada's first women's magazine, established the prototype for the Canadian YWCA (1875) and helped found the National Council of Women in 1893 and the Victorian Order of Nurses in 1897.

Irene Parlby – She was an advocate for rural women in Alberta, who was appointed the first female Cabinet Minister in Alberta and the second in the Commonwealth (1921). She was the President of the United Farm Women of Alberta in 1916 and a delegate to the League of Nations in Geneva in 1930.

continued on page