

The Famous Five & The Persons Case

- ☞ The Persons Case underlined the inequality women still faced during this time.
- ☞ In 1916, Emily Murphy (born in Cookstown, Ontario) was appointed to an Albertan court as the first female judge in the British Empire.
- ☞ A lawyer in her courtroom challenged her right to judge any case because she was a woman. He said that no woman was a “person” in the eyes of the law. Murphy was supported by the Supreme Court of Alberta, but the issue did not go away.

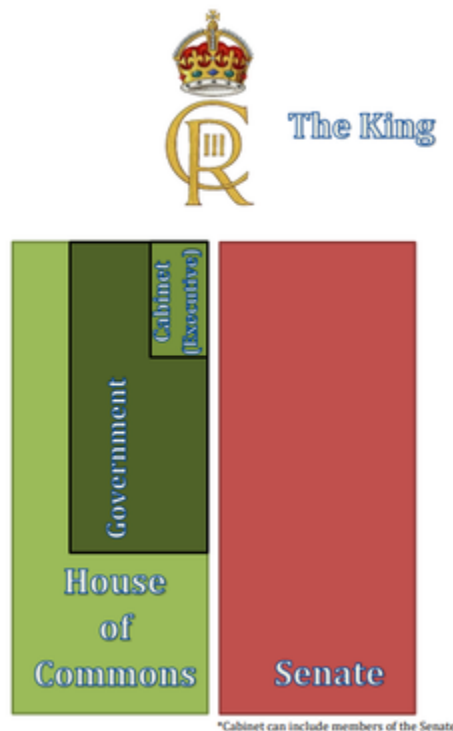


Figure 1. Canada's Parliament

- ☞ Over the years women’s groups asked the Governor General (as the representative of the King) to recommend a woman for the Senate (Canada’s Upper House). The *British North America Act* (the Act that created Canada) stated that qualified “persons” could sit in the Senate. What was a person?
- ☞ In August 1927 Emily Murphy, Henrietta Edwards, Louise McKinney, Irene Parlby, and Nellie McClung formally asked the governor general if “persons” in Canadian law included women.
- ☞ In April 1928 the Supreme Court of Canada decided – after a daylong debate – that women were not considered persons.

☞ Emily Murphy and her supporters (nicknamed “The Famous Five”) took their case, with the approval of Prime Minister Mackenzie King, to the highest court in the British Empire: the *Judicial Committee of the Privy Council* in London, England.

☞ On October 18th, 1929, the Privy Council ruled that women were indeed "persons" and could serve in the Canadian Senate. Lord Sankey, Lord Chancellor of Great Britain, announced the decision:

“The exclusion of women from all public offices is a relic of days more barbarous than ours. And to those who would ask why the word ‘person’ should include females, the obvious answer is, why should it not?”

☞ In 1930 Cairine Reay Mackay Wilson became the first woman to be appointed to the Canadian Senate, serving until 1962.

Did you know that every October 18th in Canada is commemorated as “Persons Day”?

The day honours the moment the historic decision to include women in the legal definition of “persons” was handed down by the Privy Council in London, England.

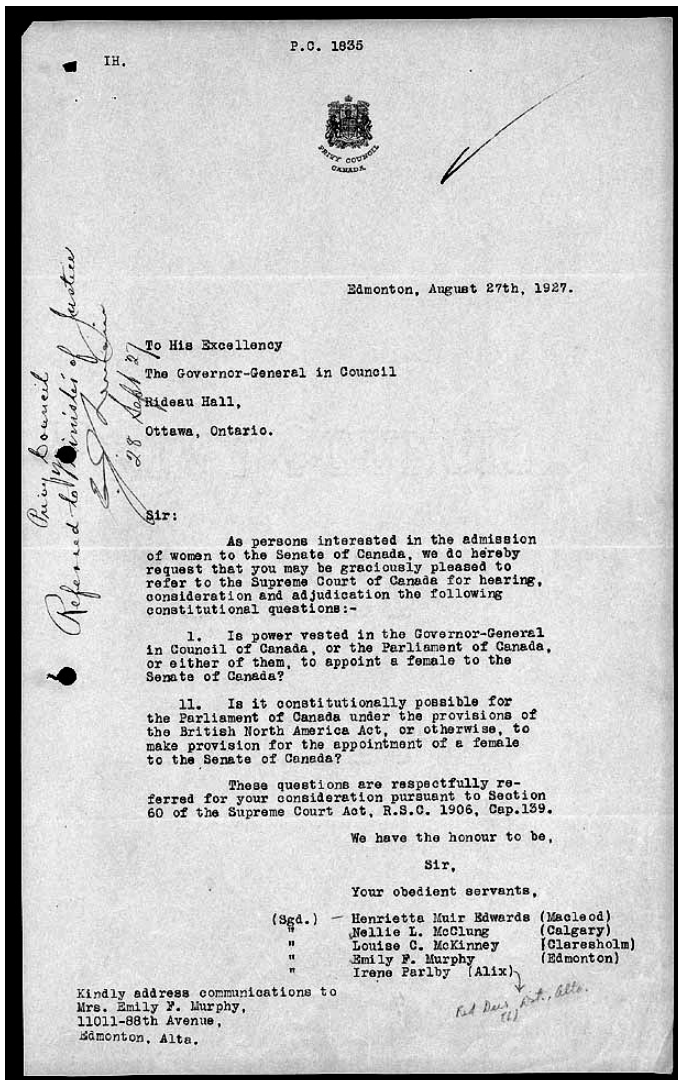


Figure 2. Letter sent by the “Famous Five” asking the Governor General if Canadian law allowed women to be appointed to the Senate.

Some things to consider . . .

- ☞ In 1950, Inuit were officially qualified to vote in federal elections. However, most Inuit had no means to exercise the franchise because they lived in isolated communities. Until ballot boxes were placed in more Inuit communities in 1962, the Inuit were effectively unable to vote. For this reason, many cite 1962 as the first year in which Inuit gained the franchise.¹
- ☞ On 31 March 1960, portions of Section 14(2) of the Canada Elections Act were repealed in order to grant the federal vote to status Indians. First Nations people could now vote without losing their “Indian” status.²
- ☞ At various times after Confederation, all provinces except Nova Scotia and Newfoundland passed legislation that in one way or another disqualified status “Indians” from voting. However, after the Second World War, status “Indians” could vote in all provincial and territorial elections: British Columbia (1949), Manitoba (1952), Ontario (1954), Saskatchewan (1960), New Brunswick (1963), Prince Edward Island (1963), Alberta (1965), Québec (1969), the Northwest Territories and Yukon (1960).³

Indian: The origins of this term links all the way to Cristobal Colon’s (Christopher Columbus) encounter with the Taíno Peoples in the 15th century. Thinking he was in India (the collective term used by Europeans for lands to the east of Europe such as India, China and Japan was *Indies*), Colon used the term *Indios* (originally, “person from the Indus valley”) to refer to the Taíno and other civilizations encountered in the Caribbean. Overtime, the term was applied to all Indigenous Peoples of the Western Hemisphere.

In Canada, *Indian* remains a legal description applied to Indigenous Peoples (including Métis and Inuit) by the Indian Act (1876). **It is not considered an appropriate term outside of discussing the Indian Act and its colonial structures.**

Status Indian: A person who is registered as an “Indian” under the *Indian Act*. The act sets out the requirements [based on blood quantum] for determining who is an Indian for the purposes of the *Indian Act*.⁴

¹ Leslie, John F.. "Indigenous Suffrage." The Canadian Encyclopedia. Historica Canada. Article published March 31, 2016; Last Edited March 31, 2016.

² Ibid.

³ Ibid.

⁴ Taken directly from the Ministry of Indigenous and Northern Affairs website on February 3rd, 2016.