

The "Persons" Case, 1927-1929

Famous in the annals of politics, the "Persons" Case allowed women to be appointed to the Senate of Canada. When Emily Murphy undertook the initiative, which would open the Senate to women, she and the four other women chosen by her - Henrietta Muir Edwards, Louise McKinney, Irene Parlby and Nellie McClung - had been long-standing militants for social reform. For years, many individuals and associations had been calling for the appointment of women to the Senate. The Senate was very important to the women because, until the 1970s, it approved divorces, among other things. They believed that if women were to sit in the Senate, decisions concerning family matters would be more equitable.

On August 27, 1927, Emily Murphy and her companions decided to petition the government, asking the Supreme Court to examine the meaning of the word "persons" in Section 24 of the *British North America Act* to determine whether it included female persons. The Court took the question under consideration on March 14, 1928. Six weeks later, it replied in the negative. One of the Supreme Court's arguments held that the Act should be interpreted in light of the times in which it was written. Since women were not politically active in 1867, they could not be elected.

The five Alberta women did not accept this decision, appealing to the Judicial Committee of England's Privy Council, the highest Court of Appeal for Canada at that time. On October 18, 1929, the five Lords of the Judicial Committee came to the unanimous conclusion that "the word 'persons' in Section 24 includes both the male and female sex...." According to them, the exclusion of women from public office was "a relic of days more barbarous than ours."