

**Answer Key--Discriminatory Law Case Study:
The Persons Case / *British North America Act (1867)***

<https://www.thecanadianencyclopedia.ca/en/article/persons-case>

Law: *British North America Act (1867)*

Background Information:

In the *British North America Act (1867)*, Section 24 stated that only qualified “persons” could be appointed to the Senate. “Persons” were legally understood to be men in 1867 and the Canadian government interpreted this section referring to only men, and not women. When activists in the 1920s suggested Emily Murphy for a Senate position, the government responded that “the British North America Act made no provision for women”.

In 1927, Emily Murphy and four other female activists (the “Famous Five”) petitioned the government to reexamine Section 24, and to determine if “person” included women.

How did this Law maintain inequalities? Consider political, social, and economic factors.

Political:

- an outdated definition of “persons” was used by the government to block Emily Murphy from a possible Senate position despite widespread support
- women were prohibited from serving in an important government role
- most Canadian women only recently were eligible to vote in federal elections (1918)
- some Canadian women (notably Aboriginal women) could not vote at this time and barred from participating in government in any way
- women were still barred from political office in New Brunswick; women in Quebec could not vote in provincial elections

Social: -the implication that women were not “persons”

How was this law reformed or amended?

Initially, Supreme Court judges responded to the Famous Five petition by ruling that women were not persons. The women appealed to the highest court of appeal at the time, the Judicial Committee of the Privy Council, in London. In 1929, the council eventually decided that the word “persons” included women. Although women were not



“persons” in 1867, the social changes marked by women’s suffrage in the early 20th century reflected changing values and awareness. The interpretation of women as “persons” was consistent with that change.

Legacy of Law:

This case and reinterpretation of the *British North America Act* established the right of women to be appointed to the Senate.