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## THE SENATE

**Motion to Recognize “Famous Five”  
as Honorary Senators Adopted**

**Speech by:**

**The Honourable Claudette Tardif**

**Thursday, October 8, 2009**

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#### MOTION TO RECOGNIZE “FAMOUS FIVE” AS HONORARY SENATORS ADOPTED

On the Order:

Resuming debate on the motion of the Honourable Senator Cochrane, seconded by the Honourable Senator Di Nino:

That the Senate of Canada,

in commemoration of the 80th anniversary of the October 18, 1929 decision of the Judicial Committee of the Privy Council that recognized women as “persons” in law eligible for appointment to the Senate of Canada, and

in acknowledgement of the important contributions women have made in the Senate of Canada,

posthumously recognize Emily Murphy, Nellie McClung, Irene Parlby, Louise McKinney and Henrietta Muir Edwards, popularly known as the “Famous Five”, as Honorary Senators.

**Hon. Claudette Tardif (Deputy Leader of the Opposition):** Honourable senators, I stand here today because of the determination and action over 80 years ago of five Canadian women from my own province of Alberta. In fact, I am inspired every day when I look out my office window to see the monument of the Famous Five. I am very proud that the monument standing just outside the Senate entrance is a copy of the Famous Five Monument in Calgary, created by an Albertan sculptor, Ms. Barbara Paterson. I also wish to recognize the important work of the Famous Five Foundation, who are the originators of the idea behind the motion before us today.

Emily Murphy fought for 10 years for the right to be appointed a senator in this chamber. More than 10,000 citizens signed petitions and wrote letters in support of her battle. Five governments indicated their support, but said their hands were tied because only “qualified persons” could be appointed to this place, and that definition did not include women.

Two prime ministers promised to change the law, but did not, so Emily Murphy turned to the courts. Under the law at the time, any five citizens could come together and appeal through the federal cabinet to the Supreme Court for clarification of a point of constitutional law. Emily Murphy, Henrietta Muir Edwards, Louise McKinney, Irene Parlby and Nellie McClung came together and asked the Supreme Court the following question: “Does the word ‘persons’ in section 24 of the British North America Act, 1867, include female persons?”

• (1520)

The Supreme Court of Canada replied no. The Famous Five were not deterred. With Prime Minister Mackenzie King’s moral and financial support, the petition was referred to the Judicial

Committee of the Privy Council of England. The Privy Council unanimously replied that, yes, women are persons, and eligible to become members of the Senate of Canada.

Honourable senators, allow me to read to you briefly from the judgment of Lord Sankey, Lord Chancellor of the Privy Council. He said:

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 “persons” should include females, the obvious answer is why should it not?

Four months after this ruling, Prime Minister Mackenzie King appointed Cairine Reay McKay Wilson of Ontario to be the first woman senator.

[Translation]

Honourable senators, this is not a partisan motion. I hope you understand how proud I am of the fact that it was a Liberal prime minister who, in the aftermath of this ruling, was the first to recommend the appointment of a woman to the Senate. What is more, Senator Wilson sat in this chamber as a Liberal.

[English]

Like my colleague Senator Cochrane, I never forget what I owe to these extraordinary five Canadian women — what all Canadian women owe to them, and indeed, women all around the world.

Honourable senators, the *Persons Case* was “the Canadian women’s triumph,” as British newspapers hailed it at the time, but it was also a watershed for women throughout the British Empire, as it became the landmark interpretation of women as persons in the English common law. British women and women across the Empire became “persons” because of the 1929 ruling.

Senator Cochrane listed a number of important milestones for women in Canadian political life. To that excellent list I add one more: our colleague, Senator Fairbairn, who served as the first woman Leader of the Government in the Senate.

She also was instrumental, as was Senator Marjory LeBreton, in making a reality, the monument to the Famous Five that stands outside the Senate entrance to the Centre Block. The monument is a reminder to us all of what can be accomplished by a few determined Canadian women.

Emily Murphy never succeeded in becoming a senator in her lifetime. I think Canada missed a great opportunity.

Honourable senators, while my heart embraced Senator Cochrane’s motion to recognize posthumously each of the Famous Five as honorary senators, I wrestled with its potential implications.

The prerogative to name individuals to this chamber does not rest with us. It is for the Governor General, acting on the advice of the Prime Minister, to summon people here. Are we setting a

precedent with this motion? In this case, we are considering posthumous recognition. What if the people to be honoured were still living? What would be the criteria?

Honourable senators, I took careful note of Senator Cochrane's statement on September 30, when she said this acknowledgment to honour these five women is "special and unique." In my opinion, these women made a truly extraordinary contribution to this chamber in particular. Their connection to the Senate is indeed special and unique. It is a connection unlike any other. Accordingly, I am proud to support Senator Cochrane's motion. However, I must caution that this motion should not be seen as a precedent. It is the opinion of many on this side of the chamber that this motion be considered a one-time-only acknowledgment because of the special connection that these women have with the upper chamber.

In the unlikely event that the issue were to arise again in the future, I believe that such a proposal would need to be referred for consideration to our Standing Committee on Rules, Procedures and the Rights of Parliament. The committee could consider such crucial issues as the criteria to be used to bestow such an honour.

I also wonder whether, today, this is the way these five women would most wish to be honoured. Nellie McClung's granddaughter, Marcia McClung, spoke in 2007 about her grandmother's legacy. She said:

My grandmother, Nellie McClung, a suffragist and a writer, had great resolve to improve the conditions for women in Canada, but she also foresaw that women would have to continue to challenge discriminatory practices for generations to come.

I appreciate that my colleague opposite has brought forward this motion, but I believe the Famous Five would have preferred to see the government reinstate funding for women's groups to continue to engage in advocacy work, the kind of work that they themselves engaged in, and that we seek to honour here today.

[*Translation*]

I was deeply impressed by the fact that Emily Murphy tried in various ways, but only succeeded by turning to the courts when she asked for clarification of the interpretation of a constitutional provision.

I was also surprised to learn that Prime Minister Mackenzie King provided financial support for their appeal to the Privy Council. The government covered the legal fees of \$23,368.47, of which \$21,000 was for the appeal to the Privy Council.

We could almost say that his contribution was a precursor to the Court Challenges Program that, for many years, provided essential support to women determined to protect and promote their rights.

[*English*]

I believe that we would best honour the Famous Five by reinstating funding for women's groups to engage in advocacy work, and by reinstating the Court Challenges Program that was eliminated by the current government.

[*Translation*]

I wish they could be here with us today in this chamber as colleagues and equal partners in the Senate of Canada. They watch us from outside, with their bronze eyes, and observe what we are doing in this chamber.

[*English*]

I am proud to support this motion to recognize these exceptional women as honorary senators. Emily Murphy, Nellie McClung, Irene Parlby, Louise McKinney and Henrietta Muir Edwards, this is your rightful place.

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