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Legacy of the Fight for Legal Personhood* By Robert I.
Sharpe and Patricia I. McMahon

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The Persons Case: The Origins and Legacy of the Fight for Legal Personhood. By Robert J. Sharpe and Patricia I. McMahon. Toronto: University of Toronto Press, 2007. xi + 269 pp. Photographs, notes, archival sources, index. \$50.00 cloth, \$27.95 paper.

Edwards v. Attorney General of Canada (“the *Persons* case”) is a landmark Canadian legal decision. By petition of the Famous Five, this case determined in 1929 that women were “persons” qualified to be appointed to the Senate, and it coined the “living tree” metaphor to command a progressive approach to constitutional interpretation in Canada. Justice Robert Sharpe of the Ontario Court of Appeal and Toronto-based lawyer Patricia

McMahon illuminate the rich connections of the Famous Five and other figures in the case to Alberta and Canadian law and politics and go on to evaluate the case's modern legacy.

According to the authors, it was no mere coincidence that the women behind the *Persons* case—Henrietta Edwards, Nellie McClung, Louise McKinney, Emily Murphy, and Irene Parlby—hailed from western Canada, “the home of protest politics and third parties.” While the Famous Five are perhaps best known for the *Persons* case, the book confirms their intimate involvement in party politics, their churches, and the concerns of first wave feminists on the prairies, including dower legislation, prohibition, and suffrage. The book also situates Alberta's approach to women's claims in a broader context, illustrating that this province was often at the forefront in recognizing women's rights to vote and sit as judges and legislators in the pre-Depression 20th century. This era sits in contrast to more recent reticence to support women's interests by Alberta governments (see Lois Harder, *State of Struggle: Feminism and Politics in Alberta*, 2003). At the same time, the authors do not downplay the fact that some of the women behind the *Persons* case held views that were racist, xenophobic, and favored eugenics, but note that while we may judge these views harshly today, they were prevalent in the context in which the women lived. The women's ultimate legacy is evaluated in spite of their views.

The book is also important for its discussions of the role and powers of courts versus legislatures, federal versus provincial governments, and the Senate at the time of the *Persons* case. The tendency of both the courts and governments to avoid politically divisive issues plagued the women's campaign to have a female appointed to the Senate, as did varying views on Senate reform. Differing judicial approaches to constitutional interpretation were also critical, with originalists sparring against more progressive judges as the case moved up the judicial ladder. Readers will find that many of these debates resonate in today's political climate in the Canadian west, where arguments for strong provincial powers and a reformed Senate, and against so-called “judicial activism,” continue to find support. Also resonant is the description of barriers to litigating rights claims in the 1920s, many of which persist today.

Overall, the authors effectively contextualize the *Persons* case and assess its impact on women's rights and constitutional interpretation in Canada. The book will be of interest to students and scholars of constitutional law and politics, and its accessible style renders it suitable

for a wider audience. **Jennifer Koshan**, *Faculty of Law, University of Calgary*.