“In either a woman or a horse”: Emily Murphy and the Road to Supporting Sexual Sterilization in Canada

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Abstract

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Emily Murphy was a pioneering advocate for women's rights in Alberta. She was instrumental in securing greater legal protections for married women through her advocacy of the province's Dower Act and was actively involved in both the suffrage and birth control movements. Perhaps more notably, she is remembered as the instigator of the Person's Case, which sought to amend the British North America Act to recognize women as "persons" eligible for appointment to the Canadian Senate.

However, Murphy's legacy has been complicated by the resurfacing of her support for eugenics and sexual sterilization. A vocal proponent for Alberta's Sexual Sterilization Act of 1928, her view on these issues shocked many Canadians. This thesis examines the intersection of class, gender, religion, maternal feminism and Irish Protestant ideology to uncover the motivations of Murphy's support for such a controversial piece of legislature. By examining her early life in Cookstown, the Orange Order's influence on the construction of her values, her writings under the Janey Canuck pseudonym, and her role as a Police Magistrate, this thesis argues that Murphy's involvement in Canada's eugenic movement was deeply entwined with her views of feminism, nationalism, and class.

To my mom, Rachelle

and my dad, John

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I first and foremost have to extend my most gracious thanks to my supervisor, Dr. Jane McGaughey, whose belief in my scholarship has shaped the academic I am. It feels like a lifetime ago now that I sat in my first Irish history class and Jane lured me to the dark side. She has made me want to become the historian I am today and I could not be more grateful for her support.

To the faculty, staff, and students of Concordia's School of Irish Studies, whose support has given me the most fulfilling academic career and whose encouragement helped me complete this work. To Jane and Gavin, whose classes made me fall in love with history; to Matina and Marion, whose unwavering dedication to student success has made the School the magical place it is. Thank you does not seem to suffice.

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I would also like to thank those who have gone through this process with me and ensured I did not lose my absolute mind. Avery, Devyn, and Mark, your friendship is the best thing to come out of this endeavour. And to all of my friends outside of Concordia — Dominique, Christine, Jennifer, Camille, Myriam — thank you for allowing me to disappear for months on end as I wrapped up this project.

And finally to Lukas and my family, thank you, I love you.

A Note on Language

The following work makes use of several historical terms associated with mental illness that prevailed in the early twentieth century and have since been rightfully discontinued. Terms such as “feeble-minded,” “mental degenerate,” and “degeneracy” are often used and general references to “the insane” are made throughout. While I omit the use of italics or quotation marks for the most part, I want to emphasize that he use of these terms in no way constitutes an endorsement or acceptance of them. Rather, it seeks to provide an accurate reflection of the power of these words and their prevalence in their historical context.

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"She was also tenacious. The ten-year battle in the "Persons" case was summed up, when it was all over, in typical Murphy style. 'I know of no way of driving a nail other than hammering it.'"

— Historica Canada Education Portal: Emily Murphy, 2024

"Since I know of no way of driving home a nail other than by hammering it, ***let me emphasize again that insane people are not entitled to progeny***."

— Emily Murphy, Vancouver Sun, September 13, 1932 [emphasis my own]

On January 25, 1996, Leilani Muir sat in a small courtroom in Alberta. When Madam Justice Joanne B. Veit's gavel fell, Muir was awarded $750,000 in damages and the government of Alberta was found guilty of wrongful sterilization and wrongful confinement. Muir had been admitted to the Provincial School for Mental Defectives in Red Deer, Alberta at the age of 11 where she had been subjected to an IQ test and classified as a "mentally defective moron." Three years later, at the age of 14, Muir was taken to hospital and subjected to an appendectomy. She left the school at the age of 21. Later, when she attempted to start a family of her own, doctors discovered that the Muir's fallopian tubes had been removed and her chances of conceiving were null.[1] Muir is but one of the many women victimized by Alberta's Sexual Sterilization Act, created in 1928 and which remained part of the province's legal system until 1972.

[1] D. Wahlsten, "Leilani Muir versus the philosopher king: eugenics on trial in Alberta," *Genetica* 99, no.2 (1997): 185-198

Introduction — A Tale of Two Emilys

"Let me emphasize again
that insane people are not entitled to progeny"
— Janey Canuck, 1926

Emily Murphy, née Ferguson, was born on March 14, 1868, in Cookstown, Ontario. Born into a strong Irish Protestant legacy, she was the granddaughter of Ogle Gowan, founder of Canada's first Orange Order lodge. She spent her early life surrounded by the affluence and privilege her familial ties afforded.[2] Well-educated from an early age, she was an avid writer, publishing under the pen name "Janey Canuck." She was also a political activist, and a member of Canada's "Famous Five," a women's advocacy group through which she helped secure the right to personhood for Canadian women under the British North America Act. She was the first woman to be elected Magistrate in the British Empire and held considerable influence in the province of Alberta. She leveraged this to advocate for unprecedented social change for women in the province. For example, she championed the Dower Act, which entitled women to a third of their husband's estate if deserted by them.[3] Part of this same advocacy, however, near the very end of her life, was the promotion of Alberta's Sexual Sterilization Act, which called for the surgical sterilization of individuals who showed signs of mental deficiency and degeneracy.

Over sixty years separate Emily Murphy's often misquoted article in the *Vancouver Sun* and Leilani Muir's verdict against the province of Alberta, but the life of Emily Murphy and others like her directly impacted the life of Leilani Muir. However, few have considered what may have influenced Murphy to promote such ideas of racial purity, or the depth of her role in

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[2] Christine Mander, *Emily Murphy: Rebel* (Toronto: Simon & Pierre, 1985), 24.
[3] Nancy Millar, *The Famous Five: Emily Murphy and the Case of the Missing Persons* (Cochrane, AB: The Western Heritage Centre, 1999), 14.

enacting policies aimed at the betterment of the Canadian "race." Murphy's legacy in Canadian history — particularly women's history — is significant and has been studied at length. Still, a surprisingly small number of scholarly works have been devoted to the intricacies of her motivations to promote social and political change.

In order to examine Murphy's role in the promotion of social change comprehensively, including her promotion of eugenic policies, we must first examine the time Murphy spent simply being a woman, mother, and wife. Most of Murphy's major social campaigns took place near the very end of her life; born in 1868, Murphy died in 1933. Becoming actively involved in various social and political campaigns only when moving to the Canadian West in 1907, she spent the majority of her life outside of the limelight of political activism. In order to properly understand Murphy's role as an advocate for married women's rights through the Dower Act, her actions as a suffragette, a Police Magistrate for the woman's court, and also a supporter of eugenics, we must first understand Murphy's role as a daughter, a minister's wife, an Irish Protestant, and a mother. This thesis attempts to nuance the binary that has been imposed on Murphy's legacy and argues that although her support of sexual sterilization in Alberta may seem entirely contradictory to her role as an advocate for women's rights, it was actually a consequence of her views on imperialism, feminism, and identity politics.

Murphy spent most of her life in Ontario. When she arrived in Western Canada, which was then much less industrialized, she seemed to identify an opportunity to define Canada's national identity against a relatively clean slate. Murphy's place in rural Albertan society and the influence of her Ontarian upbringing are integral to this study's examination of her role in first-wave feminist and eugenics movements. As the following chapters show, her actions extended

far beyond the courts and highlight her desire to build a strong Canadian nation that served its people.

Like her "Famous Five" colleague, Nellie McClung (1873-1951), Murphy can be described as one of Canada's most famous first-wave feminists. She was a vocal advocate for the Dower Act, advocated for women's suffrage, was engaged in the temperance movement, was invited to speak across Canada on matters which related to women's rights, was a member of various women's clubs, and became the foremost supporter of Canada's earliest war on drugs. Yet Murphy's legacy in Canadian history is one that — like Nellie McClung's — can best be described as one of ambivalence. One need only tune into Murphy's famous "Heritage Minutes" from the Charles R. Bronfman foundation to observe this ambivalence.[4] On the one hand, the clip itself, released in 1996, valorizes Murphy's instrumental place in the "Famous Five" and the part she played in ensuring Canadian women could sit in the Senate because they were now considered "persons" under the British North America Act. On the other hand, the caption describing the video, updated in 2016, focuses heavily on Murphy's involvement with Canada's eugenic movement. The description affords one line to Murphy's role in the Persons' Case: "The Famous Five secure the rights of women as persons throughout the Commonwealth (1929)." It then moves on to a lengthy description of Murphy's association with the eugenic movement:

> Despite her work as a pioneer advocate for womens' rights, Murphy's legacy is colored by her advocacy for eugenics, and she and Nellie McClung (also a member of the Famous Five) are regarded as two of the most prominent and influential supporters of Alberta's Sexual Sterilization Act, which organized the involuntary sterilization of people considered "mentally deficient." The law was enacted in 1928 and repealed in 1972.[5]

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[4] "Emily Murphy: Heritage Minute," posted March 2, 2016, by Historica Canada, Youtube, 1:02, https://www.youtube.com/watch?v=njAO38Og1-k.

[5] "Emily Murphy: Heritage Minute," posted March 2, 2016, by Historica Canada, Youtube, 1:02, https://www.youtube.com/watch?v=njAO38Og1-k.

This description of Murphy has come to characterize her role in Canadian history: She has been studied either as a feminist or as a eugenicist, but rarely as both. As Janice Fiamengo highlights in her work on Nellie McClung, we need to reconsider our approach when studying such figures and introduce a fair amount of nuance to our analysis.[6]

The chapters that follow present an overview of several key aspects of Murphy's life and connect them not only to each other but to their broader influence in shaping the views and attitudes that led Murphy to support Alberta's Sexual Sterilization Act in 1928. An examination of her earliest publications, personal letters, and magisterial work is framed using three key concepts: Orangeism and Irish Protestant identity; first-wave and maternal feminist movements in Alberta; and eugenic theories of racial superiority. First, the following paragraphs provide a brief historiography of these three concepts and illustrate how they will be used to examine Murphy's life and motivations.

Orangeism and Protestant Legacies

Emily Murphy's maiden name was Emily Gowan Ferguson. Though the name Gowan may not resonate with Canadians today, it certainly would have earned its fair share of recognition in nineteenth and twentieth century Canada. The Gowan family was notoriously involved with the Irish Rebellion of 1798 in Ireland where John Hunter Gowan (Emily's great grandfather) assembled a band of loyalists to stave off the Catholic rebels.[7] His son, Ogle Robert Gowan (Emily's maternal grandfather) moved to Canada in 1829, joining an already extensive

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[6] Janice Fiamengo, "A Legacy of Ambivalence: Responses to Nellie McClung," *Journal of Canadian Studies/Revue d'études canadiennes* 34, no.4 (Winter 1999-2000): 83.
[7] James G. Patterson, "White Terror: Counter-Revolutionary Violence in South Leinster, 1798-1801," *Eighteenth-Century Ireland / Iris an dá chultúr* 15 (2000): 43-44, https://www.jstor.org/stable/30071441.

network of Orangemen in the country and rose to prominence as the first Grand Master of the Grand Orange Lodge he established in Brockville, Ontario.[8] Though Gowan cannot be credited with the establishment of Orangeism in Canada — this honour belongs to Arthur Hopper a fellow Orangeman who organized the first Canadian Orange Lodge in Dalhousie District, Upper Canada, in 1825 — he can certainly be credited with the organization's rise to prominence and the promotion of its ethnic ideologies throughout Canada. Gowan is still considered to be the father of Canadian Orangeism.[9]

The Orange Order was founded in a small town in Co. Armagh, Ireland, in 1795. Though its membership certainly focused on religion as a core value, the organization seemed far more concerned with preserving Irish loyalty to the British Crown and reinforcing an ethnic identity that could be defined as being distinctly British, Protestant, and Imperialist.[10]At this time, relations between Irish Catholics and Irish Protestants were fraught with tension. The looming threat of France, whose rebellious spree could spill onto Irish soil and gain the support of Irish Catholics, led to an increase in Irish Protestant enforcement of Ireland's penal laws.[11] Following a deadly conflict, known as the Battle of the Diamond, a small band of Irish Protestant Loyalist banded together to form the Orange Order.[12] The Order, according to Hereward Senior, was formed in response to the impressive organization of the Catholic Defenders. Although no

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[8] William J. Smyth, *Toronto, The Belfast of Canada: The Orange Order and the Shaping of Municipal Culture*, (Toronto: University of Toronto Press), 81.
[9] Jane G. V. McGaughey, *Violent Loyalties: Manliness, Migration, and the Irish in the Canadas, 1798–1841* (Liverpool: Liverpool University Press, 2020), 103, https://www.jstor.org/stable/10.2307/j.ctv12sdxgh.
[10] Smyth, *Toronto*, *The Belfast of Canada*, 101.
[11] Hereward Senior, *Orangeism: The Canadian Phase* (Toronto: McGraw-Hill Ryerson Limited, 1972), 2.
[12] Patrick Coleman, *Orange Order: A Global History* (Edinburgh: Edinburgh University Press, 2025), 2–3.

Protestant lives were lost at the Battle of the Diamond, the event was significant enough to encourage the formation of a formal organization whose goal would be the defence of Protestant lives and interests.[13] The Orange Order owes its name to William of Orange, whose Protestant troops fought in Ireland against the forces of the Catholic King James II. The Orange Order still marches on the 12th of July every year to mark the Protestant victory at the Battle of the Boyne.[14]

Eric P. Kauffman, in his contemporary history of the Orange Order, identifies a particular ethno-cultural dimension to the organization which both defines it and acts in conjunction with its religious dimension. The Orange Order, according to Kauffman, provided Ulster-Protestants with a shared identity that religion allowed them to subsequently reinforce since members of the organization positioned themselves as "defenders of the faith."[15] In Canada, the Orange order organized along sectarian lines, but it also represented a way for the Protestant Irish to establish a social stronghold in major urban centres such as Toronto.[16]

Across the North American continent, the Orange Order was able to establish a lasting stronghold throughout the nineteenth century, but its spread was met with criticism. Indeed, Senior contends that the organization was first met with discontent for "bringing Irish quarrels across the Atlantic."[17] The Orangemen refuted this claim, arguing instead that they simply sought to "maintain a Protestant tradition."[18] In fact, early Orange lodges in the country had a

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[13] Hereward Senior, *The Orange Order in Ireland and Britain: 1795-1836* (London: Routledge, 1966), 18.
[14] Senior, *Orange Order in Ireland and Britain: 1795-1836,* 2.
[15] Eric P. Kauffman, *The Orange Order: A Contemporary Northern Irish History* (Oxford: Oxford University Press, 2007), 2-3.
[16] William Jenkins, *Between Raid and Rebellion: The Irish in Buffalo and Toronto, 1867-1916* (Montreal & Kingston: McGill Queen's University Press, 2013), 42.
[17] Senior, *Orangeism: The Canadian Phase,* 2.
[18] Senior, *Orangeism: The Canadian Phase,* 2.

distinctly fraternal and religious character.[19] They served as a gathering point for Protestant newcomers, provided religious services, and were seen as a "guardian of morality."[20] These moral characteristics, inherently conservative in nature and inevitably linked to the Order's Protestant affiliation, came to define the social and political position of the Orange Order throughout Canada.[21]

Beyond its role as a fraternal organization and its marked influence on Canadian political life, the Orange Order also boasted a substantial women's branch. In his book, *Women and the Orange Order*, D. A. J. MacPherson details the involvement of women in the Orange Order in an imperial context. MacPherson establishes that women were involved in the Irish Orange Order from its inception and that the involvement of women would continue following the Orange Order's transcontinental move to Canada.[22]

In Canada, the women's branch of the Orange Order manifested under the banner of the Ladies' Orange Benevolent Association, founded in 1892. According to MacPherson, one of the key objectives of this branch of the Orange Order was the "maintenance of multilayered British, ethnic and Orange identities" which became synonymous with traditional gender roles.[23] MacPherson further argues that women who joined the Orange Order in Canada and abroad "could portray and perform the role of good Orange and Protestant wives and mothers, nurturing future generations" while also "subverting these notions of gender by becoming involved in the

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[19] Smyth, *Toronto, the Belfast of Canada*, 91.
[20] Senior, *Orangeism: The Canadian Phase,* 8.
[21] Jenkins, *Between Raid and Rebellion*, 164.
[22] D. A. J. MacPherson, *Women and the Orange Order: Female Activism, Diaspora and Empire in the British World, 1850–1940* (Manchester: Manchester University Press, 2016), 3.
[23] MacPherson, *Women and the Orange Order*, 6.

public life of the community and beyond."[24] The position of traditional gender roles and the idea of women as "nurturers" of the next generation is one that became key to Western Canada's feminist movement.

Jane McGaughey explains that Ogle Gowan's life was defined by a quest for respectability that introduced a more belligerent and violent form of Irish loyalist manliness to Canada.[25] In his account of Ogle Gowan, Don Akenson emphasizes that though his drive for respectability may not have been entirely attained in life, it was certainly achieved by those that survived him, including his granddaughter, Emily.[26] Detailing Murphy's many accomplishments, Akenson remarks that "one sees a bit of Hunter Gowan's communal prejudice in Emily's fanatical anti-drug campaign" claiming that the family connection is evident because Murphy was "keen on eugenics, and particularly in favour of forced sterilization as a way to avoid 'over-population' by the wrong sorts of persons."[27] We see in Akenson's claims an indication that Emily Murphy's life and worldviews were inevitably shaped by the Protestant tradition of her predecessors, though Akenson makes no efforts to justify these claims. This thesis looks to engage with Akenson's theory by showing that the protection of an imperialist Canadian nation which upheld the moral standards of the Protestant Anglo-Saxon ascendancy was important to Murphy and resonated as a recurring theme throughout her musings during a voyage to London, England, as well as in her career as a judge for Alberta's Women's court. Key to this were

[24] MacPherson, *Women and the Orange Order*, 7.
[25] McGaughey, *Violent Loyalties*, 99.
[26] Don Akenson, *The Orangeman: The Life and Times of Ogle Gowan*, 2nd ed. (Montreal: McGill-Queen's University Press, 2023), 294.
[27] Akenson, *The Orangeman: The Life and Times of Ogle Gowan*, 294.

Murphy's views surrounding feminism, motherhood, and the role of the mother as a protector of the nation.

First-wave Feminism and Maternal Feminism in Canada

In her time, Murphy was a feminist. She was part of the first-wave feminist movement, which was progressive in its context but differed greatly from the second-wave feminist movement of the 1960s and 1970s and even more so from the twenty-first century's fourth-wave feminism. The first-wave feminist movement emerged in the late nineteenth century and spanned into the early twentieth century.[28] First-wave feminists were concerned with issues that transcended suffrage and access to birth control, such as the abolition of slavery. Nancy M. Forestell and Maureen Moynagh's two volume series *Documenting First-wave Feminisms* offers a collection of primary sources detailing the movement's inception and its growth, both globally and in Canada specifically.[29] It is imperative to understand the global nature of the first-wave feminist movement, which saw the development of transnational links and a culture of sisterhood, in order to understand the movement's impacts in a Canadian context. It is also important to acknowledge the movement's deep roots in Anglo-Saxon societies — defined here as white, English speaking, and of British descent — and the resulting racial biases that stemmed from this reality. Indeed, Forestell and Moynagh note that "with few exceptions, the membership

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[28] Carol L. Bacchi, "'First-wave' Feminism in Canada: The Ideas of the English-Canadian Suffragists, 1877–1918," *Women's Studies International Forum* 5, no. 6 (1982), 576, https://doi.org/10.1016/0277-5395(82)90099-1.

[29] Nancy M. Forestell and Maureen Moynagh, eds., *Documenting First-wave Feminisms: Volume I&II, Canada - National and Transnational Contexts, Studies in Gender and History* (Toronto: University of Toronto Press, 2012&2014), https://www.jstor.org/stable/10.3138/j.ctt5hjwqr.

of the international women's movement was drawn from the privileged classes," and that whiteness and class hierarchies shaped early feminist movements.[30]

The first-wave feminist movement has historically been characterized through the figure of the "New Woman." In her examination of Emily Murphy's Famous Five co-advocate Nellie McClung, Cecily Devereux describes the figure as seeking "emancipation from gender-based restrictions" and describes it as "opposed to motherhood as a defining characteristic of femininity," remarking even that to some, the "New Woman" represented a "social hazard."[31] In an imperial context the figure of the "New Woman" was further complicated by the importance of the role of motherhood and a deep desire to build a stronger nation.[32] In the context of nation-building, the figure of the "New Woman" embodied everything agrarian feminists sought to prevent. The "New Woman" advocated for personal liberties for women and encouraged a departure of women from the home. This ideology did not appeal to agrarian feminists, who considered the role of motherhood to be essential to the nation building efforts taking place in the western provinces.[33] This led to the emergence of a different figure: the "Mother of the Nation."[34]

In her examination of maternal feminism in the Prairies, Heather Green highlights that the role of the mother became all the more important as the nation confronted casualties from the

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[30] Forestell and Moynagh, *Documenting First-wave Feminisms, Volume 1*, 4.
[31] Cecily Devereux, *Growing a Race: Nellie L. McClung and the Fiction of Eugenic Feminism* (Toronto: University of Toronto Press, 2009), 21.
[32] Rachel De Graff, "Motherhood and Suffrage in Early Twentieth-Century Canadian Women's Journals," *The Arbutus Review* 13, no. 1 (2022): 32.
[33] Heather Green, "The Rise of Motherhood: Maternal Feminism and Health in the Rural Prairie Provinces, 1900-1930," *Past Imperfect* 20, (2017): 57.
[34] Ann Taylor Allen, *Feminism and Motherhood in Western Europe 1890-1970: The Maternal Dilemma* (Hampshire: Palgrave Macmillan, 2005), 64.

great war and that Canadians increasingly turned to "women of British background to act as saviours of the race."[35] Inspired by women's distinct role in ensuring the prominence of a "healthy Canadian race," maternal feminists, which Green describes as being "a particular group of white, Anglo-Protestant, middle-class women, and male supporters," turned to the idea of the "Mother of the Nation," which promoted ideas of race betterment and supported its ideas using the science of eugenics.[36] In promoting an idea of feminism that intertwined politics with the notion of motherhood, promoters of the "Mother of the Nation" concept were able to gather the support of those who sought enfranchisement for women but opposed the more radical forms of feminism promoted by those who embodied the concept of the "New Woman."

In her doctoral dissertation, Tracy Kulba describes the "New Woman" and differentiates first-wave feminism in Britain and Canada. She describes "New Womanhood" as being a "discursive struggle over feminine subjectivity in the context of broader social restructuring" that was "articulated and re-articulated."[37] She argues that the figure of the "New Woman" is simply a renewed version of the "Mother of the Nation."[38] This complicates Devreux's claim that the "New Woman" and the "Mother of the Nation" were two separate entities that existed in opposition. Kulba sees the "Mother of the Nation" as an iteration of the "New Woman." This, she claims, explains Murphy's role within the broader first-wave feminist movement as both an advocate for political and personal agency and a proponent of the role of the mother. Both Devreux's more binary view of the two figures and Kulba's argument for a discursive struggle are

[35] Green, "The Rise of Motherhood," 48.
[36] Green, "The Rise of Motherhood," 52.
[37] Tracy Kulba, New Woman, New Nation: Emily Murphy, the Famous 5 Foundation, and the Production of a Female Citizen (PhD diss., University of Alberta, 2004), 75.
[38] Kulba, "New Woman, New Nation," 24.

useful in examining Murphy's involvement in the first-wave feminist movement as they illustrate how the figures coexisted and converged throughout Murphy's life.

Ann Taylor Allen argues that within twentieth century first-wave feminist movement, and in Europe especially, there emerged a maternal dilemma which pitted ideas of motherhood and personal and political independence against each other.[39] A similar dilemma existed in Canada and the rise and development of maternal feminism in the Canadian West was a response to it. The ideology of the "Mother of the Nation" allowed women to advocate for political independence while also protecting their role as caretakers and educators within the private sphere. Allen argues that to resolve the maternal dilemma was to ensure the "full realization of women's rights of citizenship" and that this included not only "participation in politics, but also equal opportunity in social, economic, and cultural life."[40] Maternal feminism and the "Mother of the Nation" are therefore an attempt at the realization of this goal.

Studies of maternal feminism have also considered the particularities of gender and gender equality in the early twentieth century. According to Allen, for maternal feminists, the "argument for equality rested on the fact that [the mother's] role was different from, and complementary to, that of the father," and that partnership was central to elevating the role of the woman.[41] John McLaren describes Murphy as transcending the "traditional stereotype of the silent, compliant female," because of her outspoken demeanour and her position of privilege as a member of Canada's Irish Protestant middle-class society.[42] However, as was established above, it was exactly this ability to both foster the nation and to nurture the next generation while

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[39] Allen, *Feminism and Motherhood*, 64.
[40] Allen, *Feminism and Motherhood*, 1.
[41] Allen, *Feminism and Motherhood,* 42.
[42] John McLaren, "Maternal Feminism in Action - Emily Murphy, Police Magistrate," *Windsor Yearbook of Access to Justice* 8, (1988): 235.

simultaneously advocating for change and silently transcending traditional gender roles which characterized the Irish Protestant woman's identity.

Maternal feminism in Western Canada did not seek to position itself as entirely contrary to the first-wave feminist movement in that it still sought to obtain greater rights and political freedom for women. When examining Murphy's life, the difference and key consideration is the means through which these freedoms were achieved and the motivation for their obtention. Maternal feminists advocated for suffrage because the vote would allow them to be more active political decision makers; In turn, this would help them raise their children more effectively. Sheila Gibbons contends that "the vote was an opportunity to increase the intelligence of women about the home and provide women the capacity to produce more quality children in the future." and that "the vote for women was necessary for Canada's development as a nation."[43] Maternal feminism appealed to a certain category of women by "highlighting the sacrifice women made for the nation and how little they got in return," encouraging women to fight for their own enfranchisement, not for their own benefit, but for the benefit of the nation-building effort and future generations.[44] Their key argument relied on the popular belief that to safeguard the rights of women was to safeguard the rights of the nation, which distanced them from any radical associations to other first-wave feminists.[45] Cecily Devreux contends that the figure of the "New Woman," through her advocacy for the liberation — political, social, and sexual — of women, represented to imperial feminists the downfall of the British Imperial system in its colonies.[46]

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[43] Angus McLaren, *Our Own Master Race: Eugenics in Canada, 1885-1945* (Toronto: McClellan & Stewart Inc., 1990), 129.
[44] Green, "The Rise of Motherhood," 54.
[45] Green, "The Rise of Motherhood," 55.
[46] Cecily Devereux, "New Woman, New World: Maternal Feminism and the New Imperialism in the White Settler Colonies," *Women's Studies International Forum* 22, no. 2 (1999): 177.

The decline of the nation, Devreux claims, was specifically associated to “fallen” women and sex workers, whose public sexual transgressions illustrated the problems of the “New Woman.”[47]

In her 1991 MA thesis, Aphrodite Karamitsanis argues that Murphy is not part of the Canadian maternal feminist movement. Karamitsanis claims that Murphy's involvement in politics and her various experiences in Europe posit her as an antithesis to the typical maternal feminist of early 20th century Canada.[48] It appears that contrary to Karamitsanis's claim, Murphy's personal experiences — particularly losing two daughters to severe illness — as well as her position as a white Anglo-Saxon Irish Protestant woman with significant social standing and political influence, led to her advancement of maternal feminist views by political means. This argument is in line with Allen's claims that the maternal feminist movement depended on the law and the ability to enact policy change to further its agenda.[49]

This study also looks to further the work of John McLaren, who briefly mentions the interplay between Murphy's personal life, her career as a Magistrate, and her place in the maternal feminist movement. McLaren argues that Murphy's role as a Magistrate placed her in a privileged position to examine the ills of human nature and to ponder how to solve them, offering a detailed study of Murphy's Magistrate notes.[50] Though McLaren highlights Murphy's patience and empathy towards young offenders, he also points to the fact that she showed far less empathy towards recidivists.[51] Here, we can see some of the first signs of how Murphy's career as a Magistrate influenced her later support for sexual sterilization.

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[47] Cecily Devereux, “New Woman, New World,” 176.
[48] Aphrodite Karamitsanis, "Emily Murphy: Portrait of a Social Reformer" (Master's thesis, University of Edmonton, 1991), 10.
[49] Allen, *Feminism and Motherhood*, 87-88.
[50] McLaren, “Maternal Feminism in Action,” 245.
[51] McLaren, "Maternal Feminism in Action," 241.

Eugenics, as an ideology and as a science, developed throughout much of Murphy's adult life. Though there exists some speculation as to how much the general population understood of the science of eugenics and the consequences of eugenic policies, eugenic science as a solution for moral and social ills became increasingly popular at the onset of the twentieth century.[52] As the following section details, in Canada, racial science and maternal feminism became increasingly intertwined.

Eugenics in Canada

The term "eugenics" was first coined by Sir Francis Galton in 1883. Interestingly, he was the cousin of another famous name in the evolutionary sciences: Charles Darwin.[53] Drawing from his cousin's theory of the survival of the fittest, Galton's theory of eugenics claimed that, like physical traits, mental attributes could be genetically inherited from one generation to the next.[54] Eugenics operated on the basis of "selective breeding." Through this, Galton posited, certain characteristics such as alcoholism or perceived "feeble-mindedness" could essentially be bred out of the population by preventing those with these characteristics from producing children.[55] The goal of a program such as eugenics was the betterment of the human race as a whole through the elimination of its weakest links.[56] To the contemporary reader, it is now obvious that such ideas are not only scientifically inaccurate but can prove ultimately dangerous

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[52] McLaren, *Our Own Master Race*, 24-45.
[53] E. L. Moss, H. J. Stam, and D. Kattevilder, "From Suffrage to Sterilization: Eugenics and the Women's Movement in 20th Century Alberta," *Canadian Psychology / Psychologie canadienne* 54, no. 2 (2013): 105–114, https://doi.org/10.1037/a0032644.
[54] McLaren, *Our Own Master Race*, 14.
[55] McLaren, *Our Own Master Race*, 15.
[56] Moss, Stam, and Kattavilder, "Suffrage to Sterilization," 105.

when interpreted to an extreme. To Galton's contemporaries, however, the concept was appealing as it provided a scientific solution to perceived moral ills.[57]

Galton distinguished between "positive eugenics," which sought to encourage reproduction amongst those considered to be "fit," and "negative eugenics," which aimed to restrict birth in those which were perceived as contributing to the downfall of the race, or in extremist terms, to the perceived "race suicide" Galton observed in Britain at the time.[58] At the basis of both theories, however, was the core belief that genes, as opposed to environment, were responsible for the transmission of cognitive and mental characteristics.[59] Though the resurfacing of Mendelian genetics complicated Galton's view of gene transmission with the introduction of chance mutations, the foundation that genes were at the centre of inherited traits remained widespread in the population.[60]

Though many of the theories of eugenics are deeply contradictory and have been profoundly discredited by the movement's mobilization for genocide in Nazi Germany, the idea that the working classes were doomed by their genetic make-up and that the upper classes, therefore, were inherently superior, appealed to many in both Britain and the British Empire.[61] Eugenic ideas made their way across the Atlantic with the help of several physicians and scientists who took an interest in the concept. Though a partnership between Galton and Karl Pearson, professor of applied mathematics and mechanics at University College, London gave eugenics scientific validity, McLaren contends that most scientists in Canada were at least

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[57] Moss, Stam, and Kattavilder, "Suffrage to Sterilization," 106.
[58] McLaren, *Our Own Master Race*, 16.
[59] McLaren, *Our Own Master Race*, 17.
[60] McLaren, *Our Own Master Race*, 17.
[61] De Graf, "Motherhood and Suffrage," 32.

interested in theories of selective breeding.[62] The 1912 International Eugenics Congress in London boasted a significant Canadian presence, from inventor Alexander Graham Bell, to physician Sir William Osler, and Professors J. G. Adami, from McGill, and Ramsay Wright from the University of Toronto.[63] Still, the concept was popularized in Canada long before this. McLaren cites the example of Dr. Alexander Peter Reid, of Nova Scotia, who called for a reform in the education surrounding "feeble mindedness."[64] Reid had studied at McGill University under E. W. MacBride, who had been educated in zoology at Cambridge but later turned his focus to eugenics, seemingly introducing the concept to English-speaking North America.[65]

In her overview of eugenics in Canada, Erna Kurbegović highlights that the movement took on a particular characteristic, as it came to be influenced by both British and American eugenics. Kurbegović highlights the adoption of Alberta's Sexual Sterilization Act, which was modelled after similar acts in the United States — such as the sexual sterilization policies enacted in Indiana (1907), Washington (1909), California (1909), and twenty-nine other states between 1907 and 1937 — as illustrating the American influence.[66] However, the Canadian movement's definition of an individual's fitness, which she contends was based largely on class, resulted from British influence.[67]

In exploring the Canadian eugenic movement, scholarship of eugenics has increasingly become entwined with that of first-wave feminism. Following MacLaren's *Our Own Master*

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[62] McLaren, *Our Own Master Race*, 16 & 23.
[63] McLaren, *Our Own Master Race*, 23.
[64] McLaren, *Our Own Master Race*, 23.
[65] McLaren, *Our Own Master Race*, 23-24.
[66] Paul A. Lombardo, "Republicans, Democrats, & Doctors: The Lawmakers Who Wrote Sterilization Laws," *Journal of Law, Medicine & Ethics* 51, no. 1 (Spring 2023): 124–125, https://doi.org/10.1017/jme.2023.47.
[67] Erna Kurbegovic, "Eugenics in Canada: A Historiographical Survey," *Acta historiae medicinae, stomatologiae, pharmaciae, medicinae veterinariae* 35, no. 1 (2016): 64.

Race in 1990, Janice Fiamengo's work on Canadian activist Nellie McClung represents one of the first attempts to nuance the legacy of Canada's first-wave feminist movement by introducing a conversation about race and nationhood into its discourse.[68] Fiamengo demonstrates how an involvement in both feminist and eugenic movements could work together and should be examined as parts of the same whole. She highlights that "if women's destiny was to mother the race, then no activity that affected the race could be argued to fall outside women's sphere," underscoring the intertwining of feminism, motherhood, and race.[69]

Later studies have continued to highlight the intertwining of the eugenic and the first-wave feminist movement, particularly regarding women's suffrage. Moss et al. argue that the "woman's role as guardian of the race was taken seriously," but that many who supported the movement, such as Murphy, were guided by a lack of understanding of both the mental illnesses they sought to protect society from, as well as the racial differences they promoted.[70] Although Murphy certainly was not a physician, she had a keen understanding of the effects of mental illness, which she gained through her years of experience as a Magistrate. She was also a well-educated and well-read individual. Murphy's personal motto book shows that she read Aurelius, Confucius, Newcomb, and many others.[71] It is inaccurate to assume she did not have a grasp on these concepts. Both maternal feminism and eugenics centred on the idea of motherhood as being fundamental to the good of the nation, showing that it was possible for them to exist in parallel.[72]

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[68] Janice Fiamengo, "A Legacy of Ambivalence: Responses to Nellie McClung," *Journal of Canadian Studies/Revue d'études canadiennes* 34, no.4 (Winter 1999-2000).
[69] Fiamengo, "A Legacy of Ambivalence," 76.
[70] Moss, Stam, and Kattevilder, "From Suffrage to Sterilization," 114.
[71] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 70, Collected Epigrams (in 1926 Daily Journal).
[72] Devreux, *Growing a Race*, 14-15.

Green further argues that maternal feminism became a tool of the white Anglo-Protestant middle-class population to promote ideas of race hierarchy and "further their claims in the public discourse of national responsibilities and rights to gain political power."[73] Though Green does not specifically discuss Murphy when she concludes that maternal feminism was used as a tool for political advancement, her research provides valuable insight with which to examine Murphy's life and work. Similarly, in her examination of the feminist and eugenics movements in the Canadian prairies, Sheila Gibbons claims that "involvement in farm life, agrarian politics, and maternal reforms […] provides the necessary connections between eugenics and feminism in Alberta."[74] Murphy was an outsider in the Canadian Prairies, and only when she entered this new space did she begin to appreciate the value of the hard working men and women of the West. In our examination of Murphy, we can see how this appreciation evolved into a desire to protect those hard working members of society from the corruptive influence of the lazy.

There exist obvious dichotomies in how Emily Murphy is studied in Canadian history. She is either praised as a hero for her involvement with first-wave feminism and the Persons' Case or vilified for her role in promoting eugenics and helping to enact Alberta's Sexual Sterilization Act. She is studied either as a Police Magistrate, or as a woman and mother. There exists very little scholarship that considers these elements altogether and which explores them not as opposing forces, but as ideologies that worked together to create Murphy's public legacy. Key to bridging the gap between the study of Murphy's role in the first-wave feminist movement and that of her fervent support of Alberta's sexual sterilization policy and wider eugenics beliefs is an in-depth examination of Murphy's construction of nationhood, the influence of her family's

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[73] Green, "The Rise of Motherhood," 48.
[74] Sheila Gibbons, "'Our Power to Remodel Civilization': The Development of Eugenic Feminism in Alberta, 1909-1921," *Canadian Bulletin of Medical History* 31, no. 1 (2014): 125.

central role as part of the Orange Order in Ontario, as well as her Irish Protestant Anglo-Saxon background and role as a minister's wife.

By examining first-wave feminism and eugenics as complementary movements and, in the case of Murphy specifically, by showing how both sets of ideals were highly influenced by Protestant Anglo-Saxon values, I aim not to pose a judgement on the righteousness of Murphy's actions, but to introduce important nuance to our examination of Canadian historical figures and their wider role in global movements. This study seeks to bridge the gap between first-wave feminist studies and studies of the eugenics movement prior to World War II by introducing a lens that considers the transcontinental influence of Irish Protestant ideals and their role in Canadian nation building efforts.

This thesis will be divided into three chapters which examine Muphy's life chronologically. Each chapter will look at how first-wave feminism, eugenics, and Protestant ideology influenced Murphy's outlook, examining particularly the development of her opinions on class, gender, and nationhood throughout her life. The first chapter examines Murphy's early years in Cookstown, Ontario as well as her marriage to Arthur Murphy and the subsequent family they formed, highlighting Murphy's role as a minister's wife and middle-class mother. Relying primarily on existing biographies of Murphy's life by Byrne Hope Sanders and Christine Mander, as well as Murphy's first major publication under the Janey Canuck penname *The Impressions of Janey Canuck Abroad* (1901), this section seeks to expand our understanding of Murphy's worldview as she navigated her role as a woman, mother, and wife in Canadian society.

The second chapter provides an in-depth look at Murphy's role as Police Magistrate for the Alberta Women's Court. Using a variety of correspondence both to and from Murphy, as well

as detailed court session notes, this section aims to better understand what Murphy's public role became when she was appointed to head the court. Correspondence that Murphy was both writing and receiving indicates that this may be far more complex than previous studies have shown. This section also establishes continuity with the previous section by showing how Murphy's ideas surrounding class, religion, and race became central to her work as a Magistrate and influenced her judicial decisions. It also highlights Murphy's dedication to the protection of women and children, while still underscoring her harsh judgement of those particular members of society she deemed unfit.

Finally, the third chapter will investigate Murphy's role as an advocate for Alberta's Sexual Sterilization Act. Though this legislation remained part of Alberta's legal system far beyond Murphy's death in 1933, and, indeed, was transformed by a 1937 amendment to its provisions, Murphy remains one of the act's earliest and most prominent advocates. However, it is impossible to look at Murphy's vocal outcry for the act's implementation without also examining the issues that incentivized her advocacy. Having established Murphy's position regarding class, gender, race, mental hygiene, and nationhood in the previous two sections, this section aims to illustrate how Murphy's worldviews and position as a Magistrate informed her support of sexual sterilization.

Chapter 1 — Emily Murphy and the Adventures of Janey Canuck

"Most high adventures come
to us from the byways of life"

— *Janey Canuck, 1926*

Emily Murphy's life was filled with adventure. She saw these adventures as part of her everyday life. She did not go looking for grand escapades and impossible missions, yet they always seemed to find her. It is sometimes easy to forget, when we look at pioneering Canadian heroes, the humanity with which they were born. Murphy shaped how women were recognized by Canada's legal system, in this regard she was a trailblazer. But she was also a woman, a wife, a mother, a friend, and ultimately, just a human being. This chapter explores Murphy's early life, her grand adventure to England, and the first few expressions of her thoughts on gender, social norms, nationalism, religion, and class.

Emily Murphy: The Girl from Cookstown

Before she became the first woman Police Magistrate in the British Empire, Emily Murphy wore many hats — though none quite as large as the one she currently dons in Ottawa where her statue drinks tea with other members of the "Famous Five." Before she revolutionized the status of women across Canada, Emily Murphy was simply Emily Gowan Ferguson, daughter of Isaac Ferguson and Emily (Gowan) Ferguson. From a young age, Murphy was afforded something few women of her time were: access to a formal education. Educated at Bishop Strachan boarding school in Toronto, she was always encouraged, by her father especially, to cultivate her knowledge and know how in the same way a man would.[75] Isaac Ferguson was progressive in that he believed his daughter should be afforded the same duties

[75] Mander, *Rebel*, 22

and privileges as his sons. He did not, however, extend this thinking to punishments, believing rather in a softer form of discipline for the young girl.[76]

There exists one key difficulty in examining Murphy's early childhood and life in Ontario: there are no archival records of her time there. Historians have so far relied on the two existing biographies of Murphy's life, *Emily Murphy: Crusader* (1945) by Byrne Hope Sanders and *Emily Murphy: Rebel* (1985) by Christine Mander to understand her early childhood. These two accounts, however, were not written as scholarly works and therefore provide few references. Sanders wrote her account with the help of Murphy's daughters as well as an unprecedented access to her personal diaries, which are not available to the general public as they remain within the family.[77] Similarly, Mander penned her account with the help of Murphy's niece, who also provided her with access to the family's journals.[78] Both of these biographies were therefore created using textual documents that remain unavailable, as well as oral histories and family stories.

Though this poses a challenge as it is impossible to verify much of the information they present regarding the early chapters of Murphy's life, family histories and oral histories remain crucial to our understanding of personal narratives. It is sometimes difficult to accept that these stories, which have been passed down from one generation to the next and as such, may have been embellished or distorted, are nevertheless an acceptable historical resource. These records of Murphy's life are significant not only because they are retellings of her stories, but also for what they can tell us about the Ferguson and Gowan families and the stories they thought were important enough to preserve and share. We will not find in these materials a very critical

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[76] Sanders, *Crusader*, 9.
[77] Sanders, *Crusader*, ix
[78] Mander, *Rebel*, 9

outlook on Murphy's life and views but we can find key elements to construct her character and further our analysis of the textual documents we do have access to. Ultimately, they remain the best available resources to analyze Murphy's early life.

Sanders's account of Murphy's early life in Cookstown highlights the distinct privilege of the Ferguson household. She describes Murphy's childhood home as having "plenty of room; plenty of money; plenty of love" and explains that Murphy was born into a "rich and noble life."[79] This wealth became synonymous with privilege and a certain degree of social sophistication. Issac Ferguson, for example, hired a private teacher for his children so as to ensure they learned proper handwriting techniques as opposed to "those vain and insane flourishes that were taught in public schools."[80] The family even had the honour of hosting Prime Minister Sir John A. Macdonald along with politicians Charles Tupper and D'Alton McCarthy. For the occasion, the Ferguson boys donned "new velveteen suits" and Murphy wore "new silk" emphasizing not only the magnitude of the occasion, but the family's wealth and importance given the significant cost of both velvet and silk during this period.[81] Many of Murphy's close relatives, Gowan and Ferguson alike, rose to prominence in Canadian society. Her first cousin twice-removed, Sir James Robert Gowan was a successful judge of the supreme court who later became a Senator and authored the Canadian Criminal Code. Uncle "Tom" Ferguson was a successful Tory politician; and Murphy's cousin, Justice Thomas Ferguson, enthralled the Ferguson children with stories from his bench.[82]

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[79] Sanders, *Crusader*, 2-3.
[80] Sanders, *Crusader*, 10.
[81] Sanders, *Crusader*, 7.
[82] Mander, *Rebel*, 20-21.

Sanders emphasizes Murphy's relationship with Orange Order and the organization's significance to her family's history. Murphy's mother, of the same name, came from a very prominent middle-class Irish Protestant family. Murphy's grandfather, Ogle Robert Gowan, established the Orange Order in Canada, and tales of his accomplishments became the stories that informed the Ferguson children's boisterous games. Tales of flags waving and heads flying in the name of Protestant freedom culminated every year, for the Gowans, in celebration.[83] On the eve of July twelfth, "the fluting of pipes and the roll of drums sounded from the open windows of the Orange Hall" destined for the Ferguson house.[84] Preceding the Orange Day parade on the twelfth, Orangemen marched through the streets of Cookstown to land at the Ferguson house in homage to the late Ogle Gowan.[85] There to greet the men stood Emily Gowan, the mother, and beside her stood a young, wide-eyed Murphy "loving every minute of it."[86]

Sanders further describes Murphy's participation in this celebration as well as the following day's parade claiming that "to young Emily, the dramatics of the day were immeasurably satisfactory," adding that "she loved the general air of celebration."[87] She also highlights that Murphy was "fortified with her knowledge of what it all represented" noting that she viewed Orangemen "marching as the knights of old."[88] One can easily imagine the bewilderment of a child at the extravagance of a parade which was held in her family's honour. However, given the intent of her biographical work, Sanders does not offer much in the way of evidence to support her claim that a young Emily Murphy grasped the magnitude, significance,

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[83] Sanders, *Crusader,* 13.
[84] Sanders, *Crusader*, 13.
[85] Sanders, *Crusader*, 13.
[86] Sanders, *Crusader*, 13.
[87] Sanders, *Crusader*, 13.
[88] Sanders, *Crusader*, 13.

and intricacies of Orange celebrations. It is difficult to imagine that these festivities, as well as the general air of grandeur and heroism that surrounded her grandfather's accomplishments, had no effect on Murphy's early impressions of the world, but Murphy herself spoke very rarely of her association with the Order. However, as Angela Cavender Wilson writes, "the stories handed down from grandmother to granddaughter are rooted in a deep sense of kinship responsibility, a responsibility that relays a culture, an identity, and a sense of belonging."[89] In sharing the epic stories of her own grandfather's accomplishments with her daughters and niece, which they were later able to relay to her biographers, Murphy expressed the impact of her Orange Irish upbringing. In choosing to share these stories, she highlighted their importance and relayed this particular aspect of her culture and identity.

In 1882, Murphy began classes at the Bishop Strachan School for Girls in Toronto. The institution was quite prestigious and was named after the city's first Anglican bishop. It follows then that one of the school's chief subjects was religion. Murphy excelled in her classes, proved to be a diligent student, and her report cards noted that she "worked admirably."[90] While studying in Toronto, Murphy made the acquaintance of a "tall, blonde, very good-looking young man with blue eyes."[91] Sanders and Mander offer conflicting accounts of how Emily and Arthur met, illustrating the difficulty in using these biographical accounts. Sanders contends the pair became acquainted during a summer holiday in Sutton, while the young woman was travelling home from school.[92] Mander, however, claims the pair met with the help of her older brothers,

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[89] Angela Cavender Wilson, "Grandmother to Granddaughter: Generations of Oral History in a Dakota Family," *American Indian Quarterly* 20, no. 1 (Winter 1996): 7.
[90] Mander, *Rebel*, 25.
[91] Mander, *Rebel*, 25.
[92] Sanders, *Crusader*, 23.

Tom and Gowan.[93] However it is they met, the pair formed a solid bond that lasted a lifetime. Arthur Murphy was the son of Irish emigrant parents who had settled in Rosemont, a mere sixteen miles from Cookstown. He studied at Wycliffe College in Toronto with the goal of obtaining a theology degree to become an Anglican minister.[94] In 1887, the couple wed in Cookstown and Emily Ferguson became Emily Murphy, minister's wife.[95] This is a role she took very seriously, and she engrossed herself in truly understanding her faith and the duties that came with being a minister's wife.

Though the Murphys spent most of their life in Canada, the couple spent a little over a year in various parts of England with their children for Arthur's work. Murphy documented this time in England in one of her earliest publications, *The Impressions of Janey Canuck Abroad,* published in 1901. The diary like publication uses pseudonyms (Arthur, for example, is referred to as "The Padre") to retell the family's time in England. This first-person account represents one of the first in which we can examine Murphy's views regarding class, religion, and national identity as well as how she expressed them. Many of the thoughts she expressed at this time in her life are consistent with theories that she was politically conscious from a young age.

Though it remains difficult to pinpoint the impact of the Orange Order and its values on Murphy's adult life, we can establish some connections between the values Murphy promoted in her own writing and those which existed within the core of the Orange Order. Mander argues that "one can see Emily's mental groping at this time in her life as her natural compassion for the downtrodden, and innate hatred of injustice vied with a repugnance that came out of her genteel,

[93] Mander, *Rebel*, 26.
[94] Mander, *Rebel*, 26.
[95] Mander, *Rebel*, 28.

class-conscious upbringing."[96] This posits Murphy's role as a champion of women as contrary to her upbringing and shows that her advocacy may always have been conditional and influenced by the values of her upbringing. Indeed, Mander's use of the word "repugnance" is particularly interesting because it illustrates an innate distaste of the lower classes that would have been present in Murphy early on. This fact remains uncertain, as we can only begin to make definitive claims when Murphy begins to publicize her thoughts through her own writing.

Emily Murphy: Far from Home

Murphy's time in England solidified her concept of a Canadian national identity. The voyage from Canada to London was not initially a pleasant one. Barely recovered from the homesickness that struck as soon as she saw the shores of Canada disappear behind her, she was taken with terrible sea sickness.[97] Even more devastating than the crossing itself was the company on board the ship. Murphy detailed an interaction with a group of Englishmen aboard the vessel who had been discussing the state of the Canadian colony. Though they did not say so directly, Murphy claimed the men perpetuated existing impressions of Canada as being "a small community of fourth-rate, half-educated people."[98] The men pressed on, comparing Canadians to their American neighbours, finding more similarities between the two than between Canadians and their sovereign.[99] This insolence being too much for Murphy to bear, she turned to the man and reminded him that "while Americans were *nationally* assumptive, the English were *personally* so."[100] Sanders and Mander both point to this moment as being that which first

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[96] Mander, *Rebel*, 43.
[97] Emily Murphy, *The Impressions of Janey Canuck Abroad* (Toronto: William Briggs, 1901), 3.
[98] Murphy, *Impressions of Janey Canuck*, 5.
[99] Sanders, *Crusader*, 52.
[100] Murphy, *Impressions of Janey Canuck*, 5.

indicates a sense of national pride and a desire to craft a Canadian identity on Murphy's part. Indeed, throughout the rest of her account of England, we can see Murphy beginning to shape an idea of what it means to be Canadian and to express pride for her home country.

Murphy made a point of comparing England and Canada several times, often highlighting that Canada was superior. This is consistent with Fiamengo's claim that although many Canadians maintained imperialist ties in the early conception of a Canadian national identity following confederation, they often boasted the superiority of Canada.[101] Much like those of her Atlantic voyage, Murphy's first impressions of England were "not entirely happy ones."[102] Critical of the "unblushingly disreputable" women and the painfully evident "mendicant and criminal poor," Murphy had few nice things to say about Liverpool when she arrived on July 3, 1898.[103] Though Murphy noted her appreciation for the solid build of the city, her most sincere praise was reserved for the country's horses which, unsurprisingly, came from Canada: "Staid, magnificent, sober-minded, incapable of surprises, with their glossy hides and well-padded contour," she claimed, "they [were] a credit" to the Canadian colony.[104] Even when Murphy complimented the English countryside, it failed to rival what seemed to be Canadian ideation. In describing a stroll after a lunch in Clacton, for example, Murphy explained: "everywhere I looked the landscape composed itself into a perfect picture, yet its prettiness tired me and I began to long for the bold features of our Canadian scenery."[105] The contrast in these descriptions of England and Canada illustrate how Murphy embodied Fiamengo's theory.

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[101] Janice Anne Fiamengo, "Even in This Canada of Ours": Suffering, Sympathy, and Social Justice in Late-Victorian Canadian Social Reform Discourse (PhD diss., University of British Columbia, 1996), 41.
[102] Murphy, *Impressions of Janey Canuck*, 10.
[103] Murphy, *Impressions of Janey Canuck*, 10.
[104] Murphy, *Impressions of Janey Canuck*, 11.
[105] Murphy, *Impressions of Janey Canuck*, 29.

Though Murphy criticized England, she still remained a devout imperialist. When visiting St-Paul's Cathedral, Murphy found that in the "mausoleum of British heroes [...] a Canadian's pulses beat no quicker than at the foot of the crypt stairs, where the nation has erected a superb bust of the late Sir John A. Macdonald."[106] She also noted the inscription on the marble bust: "A British Subject was I born, And a British Subject will I die."[107] Macdonald, we will remember, was a friend of Murphy's maternal grandfather and had once visited the Ferguson home when Murphy was a child. Macdonald was Canada's first prime minister and a trailblazer of confederation. Murphy's respect for him and her decision to highlight his status as a British subject underscore the imperial characteristic of her Canadian nationalism, which was not uncommon of the time. This expression of imperial nationalism follows Fiamengo's claim that although they depended on Britain, Canadian imperialists recognized Canada as its own country, allowing imperialism to fall in line with Canadian nationalism, instead of being contrary to it.[108]

Murphy spent much of her time in England "learning a charming variety of ways of doing nothing," but still made a concerted effort to attend many religious services.[109] From her descriptions of these, we can gain a sense of her engagement with the Protestant faith and the importance of religion to the construction of her identity. Mander explains that Murphy's visits to churches of both Protestant and Catholic denominations gave her much food for thought.[110] What stands out most from Murphy's visits to different religious institutions is that she was extremely critical of Catholic services and rituals. She described one mass she attended as "miserably

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[106] Murphy, *Impressions of Janey Canuck*, 42.
[107] Murphy, *Impressions of Janey Canuck*, 42.
[108] Fiamengo, "Even in This Canada of Ours," 41.
[109] Murphy, *Impressions of Janey Canuck*, 23.
[110] Mander, *Rebel*, 42.

mumbled," and quite resembling a theory lesson.[111] She also lamented the lack of music during the prayer time. To Murphy's own surprise, this first prayer was simply a preamble to the actual service, which she described as a "necessary inconvenience."[112] Her criticism continued, this time aimed at the congregation as she noted the "frightened" look on the candle bearer's face, highlighting fear as a characteristic of the Roman Catholic following.[113] She noted, with a hint of sarcasm, that the priest seemed unable to turn the pages of his own prayer book, requiring the help of an assistant. Further criticizing the monotone droning of prayers and the constant synchronous movements of the congregation, she concluded that the whole thing was "a succession of tableaux and burlesques" and that "it was playing at religion."[114]

This harsh criticism is not surprising if we consider Murphy's upbringing and her relationship to Ogle Gowan, who we can recall was a staunch Orangeman and fervent anti-Catholic. However, Murphy goes beyond criticizing the social and moral character of Catholics — which would have been common in Orange circles — and criticizes the dogma of the religion itself. In Canada, though the Orange Order certainly held anti-Catholic views, it was the observable class, social, and perceived moral differences of Catholics that informed much of the Order's criticism.[115] By criticizing the rituals of the Catholic Church as well as the demeanour of its constituents, Murphy aligned her views with some of the more stern Orangemen in Canada, though perhaps inadvertently.

Not all Protestants are Orangemen, however, one of the organization's founding principles was that all members were to be Protestant, and no Catholic should be admitted under

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[111] Murphy, *Impressions of Janey Canuck*, 42.
[112] Murphy, *Impressions of Janey Canuck*, 15.
[113] Murphy, *Impressions of Janey Canuck*, 15.
[114] Murphy, *Impressions of Janey Canuck*, 16.
[115] McGaughey, *Violent Loyalties*,109-110.

any circumstances.[116] Sanders highlights a connection between Murphy and the Orange Order during her childhood. In adulthood, however, it is more difficult to ascertain Murphy's involvement with the Order. Though she is credited with belonging to several formal women's groups, such as the Women's Press Club and the Imperial Order of the Daughters of the Empire, I have found no evidence of Murphy ever joining the Women's Branch of the Orange Order. This makes it difficult for us to claim Orangeism had a marked impact on her life and the decisions she made in adulthood. However, Murphy's writing does provide evidence as to her relationship with the Protestant faith and its significance. Detailing a visit to Giltspur Street in London on January 15, 1899, Murphy described the persecution of some 275 Protestants during the reign of Mary I. To the memory of reformers such as Anne Askew, John Bradford, and John Rogers, she said, as well as "that of [her] own good ancestors, who suffered and died for the sake of the Protestant religion and the liberties of England" Murphy laid a wreath.[117] Murphy showed profound respect and admiration for the martyrs of the Protestant reformation. In referring to her "own" good ancestors, we may infer that she is referring to those Protestants who fought in Ireland to defend themselves against Catholic antagonists. This may be an indication that she maintained a relationship to the Protestant faith that derived from her Irish identity. Though she may not have formally belonged to the Orange Order, she surely respected its cause and Protestant martyrs.

Another indication of Murphy's commitment to the Protestant faith and its values comes from her various descriptions of services in England, as well as her relationship to Arthur's role an Anglican priest. Murphy wrote in detail of her visits to different congregations. Mander

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[116] McGaughey, *Violent Loyalties*, 103.
[117] Murphy, *Impressions of Janey Canuck*, 79.

claims that Murphy was "impressed by the sermons delivered," which is obvious in the painstaking amount of detail she described them with.[118] Indeed, Murphy described seeing Dr. John Watson, and noted that the service was well attended. She described the unconventional preacher as "a man of strong convictions" and "unyielding."[119] The respect she displayed extended to the sermon itself. Whereas Murphy criticized the Roman Catholic service for its ritualistic nature, she praised Dr. Watson for his "copious and elegant" rhetoric and his ability to engage the congregation with a passionate discourse. In the same instance, she also praised the Bishop of Liverpool, Dr. Ryle. It is unclear whether Dr. Watson and Dr. Ryle led the same service, but Murphy described Ryle's sermon as lively, commending its harsh but just criticism of the Ritualistic Church and the danger it represents to the Church of England.[120] Murphy detailed many more visits to Protestant religious services and remained thoroughly impressed with the quality of the men who led these.

Although she certainly showed no love for the Roman Catholic way of practicing religion, she still held some empathy for the conflict between the two churches. Following her unfavourable description of the Catholic service, Murphy lamented the fact that the Church itself was stoned the following Sunday by a group of Evangelicals.[121] Though she did not appreciate the denomination itself, she still did not condone the brash and brute fashion with which some had decided to address the issue, calling it "neither dignified nor discreet."[122] These are shocking words coming from the granddaughter of Ogle Gowan, who could likely be found rolling in his

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[118] Mander, *Rebel*, 42.
[119] Murphy, *Impressions of Janey Canuck*, 13.
[120] Murphy, *Impressions of Janey Canuck*, 14.
[121] Murphy, *Impressions of Janey Canuck*, 17.
[122] Murphy, *Impressions of Janey Canuck*, 17.

grave as Murphy penned them, given the violent means he had chosen to embody.[123] Although it seems she maintained considerable respect for the Church of England, these more sympathetic words indicate that she may have also moved away from the more obviously violent methods of the Orange Order that had delighted her childhood imagination.

In a similar vein, Murphy addressed the Home Rule Crisis in Ireland. Writing at length on an unspecified day in July of 1899, Murphy admitted to being perplexed by the various ecclesiastic matters involved and noted that she "[did] not pretend, like the average American tourist in Ireland, to settle the Home Rule Question in a week."[124] But Murphy did not frame her lengthy thought process around Ireland and its specific politics, focusing instead on the root cause of the issue: the conflict between religious denominations.

Murphy grew up surrounded by the constant tension between Catholics and Protestants and her "pacifist heart deplored" the brutal tactics used during the conflict.[125] Mander claims this bitter fighting led Murphy to question the "validity of either denomination."[126] However, Murphy's pondering of the Home Rule Question as a distinctly ecclesiastic issue shows that she held a certain degree of respect for the Protestant faith that she did not afford the Catholic Church. For example, she claimed that "Evangelicals base[d] their authority on the Bible" whereas Ritualists based theirs on the Church of Rome. Murphy even went so far as to mock Roman Catholics by claiming that "they set out for Rome, stopped short on reaching the Apii Fortum, and got drunk at the Three Taverns."[127] To say that Murphy questioned both denominations, as Mander posits, is inaccurate. Based on the vivid descriptions of the many

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[123] McGaughey, *Violent Loyalties*, 99.
[124] Murphy, *Impressions of Janey Canuck*, 136.
[125] Mander, *Rebel*, 42.
[126] Mander, *Rebel*, 42.
[127] Murphy, *Impressions of Janey Canuck*, 136.

Protestant services she attended, her praise of their preachers and sermons, and her discussion of the Home Rule Crisis, it is more accurate to say that she acknowledged the imperfections of Protestants while still holding them in much higher esteem than their Catholic counterparts.

Janey Canuck Abroad also provides information about Murphy's views on class. Murphy first noted the class of certain individuals when first arriving to Liverpool, where the family seems to have stayed for roughly three months.[128] There, she found "the saloons seem[ed] to be innumerable," and in the streets, she noted the disreputable characteristics of women who may be sex workers. She also described "poverty-distorted children" who showed "appalling persistency" in their efforts to beg for money on the street.[129] She did not, however, attribute their fortune entirely to their own decisions, echoing instead the belief that if environment really was to mold individuals, then there was little hope for the individuals of Liverpool, given the shabby state of the town.[130] For those "living in foul streets with so many tempting facilities to vice," Murphy claimed, "the deterioration of mankind, both spiritually and physically, [was] inevitable."[131] Murphy's allusion to the fact that environmental factors influenced a person's disposition to vice aligned with the beliefs of Canada's nineteenth century reformers.

Early Canadian reformers believed that one's environment, as opposed to any innate characteristics, led to criminal behaviour.[132] Under the guise of benevolence, reformers sought to "clean up" the streets of Canadian cities, so that they would not only better suit their idea of a

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[128] Murphy's entries in *The Impressions of Janey Canuck Abroad* do not always provide a location. However, if we can assume the family remained in the same city until a new location is named, then the Murphys would have been in Liverpool from July 3, 1898 to September 25, 1898 when they moved to Suthend (see Murphy, *Impressions of Janey Canuck Abroad*, 31).
[129] Murphy, *Impressions of Janey Canuck*, 10.
[130] Murphy, *Impressions of Janey Canuck*, 11.
[131] Murphy, *Impressions of Janey Canuck*, 11.
[132] Dan Horner, *Taking to the Streets: Crowds, Politics, and the Urban Experience in Mid-Nineteenth-Century Montreal* (Montreal: McGill-Queen's University Press, 2020), 196.

Canadian nation but afford better opportunities to those who were most affected by the destitute environment.[133] Many of those involved in the reformist movement belonged to the middle and upper classes and were Anglo-Saxon Protestants.[134] A key element of the reformist movement was a call for prohibition and temperance, as alcohol and intoxication were seen as key contributing factors to social degeneration.[135] Coming from a family that was highly involved in the fabric of Canadian politics, Murphy could have been exposed to ideas of social reformism from an early age. Her descriptions of the streets of London and Liverpool certainly seem to indicate as much and show how she was eventually part of a larger movement that sought social reform as a solution to social ills, especially as a member of Alberta's Canadian Committee of Mental Hygiene.

Mander claims that the poverty Emily was exposed to in various parts of England had a notable effect on her. She establishes a link between what Murphy witnessed in England and what she would later be confronted with during her time in Alberta, claiming it encouraged a more humane approach to her work as a Magistrate.[136] However, there is not much in Murphy's writing that actually supports this sympathetic reading of her opinions. Instead, the sight of children disfigured by poverty, of women selling their bodies, and of men perpetually dazed in drunken stupors seemed to alarm Murphy.[137] Instead of informing, as Mander claims, a more humane approach, Murphy's time in England, especially in cities such as London and Liverpool,

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[133] Fiamengo, “Even in This Canada of Ours,” 75.
[134] Dan Horner, *Taking to the Streets: Crowds, Politics, and the Urban*, 196.
[135] Ramsay Cook and Robert Craig Brown, *Canada: A Nation Transformed, 1896–1921* (Toronto: McClelland & Stewart, 1976), 86.
[136] Mander, *Rebel*, 42.
[137] Murphy, *Impressions of Janey Canuck*, 40.

provided her with a blueprint of the ills of society that needed to be cured in order to ensure the future health of the nation.

Mander and Sanders both claim that what Murphy experienced during her time in England was a precursor to what she later accomplished in Canada. But it is important to remember that Murphy's writing shows a sense of "mental groping" with what she witnessed.[138] Though she may have expressed some slight sympathy towards those in desolate situations, her distaste for people of the lower classes is evident. Murphy's observation that the physical features of some children indicated the low stature of their birth further proves that Murphy's opinion of certain individuals was directly informed by her perception of their physical characteristics.[139]

Emily Murphy: The Irish Question

As mentioned above, it is difficult to trace later iterations of Murphy's Irishness. A look at a few of her personal letters, however, as well as large collections of scrapbooks, give us a small glimpse into how she expressed, perceived, and documented her relationship with Ireland and her Irish background.

In a letter she penned on March 5th, 1920, to Mr. Coone, ESQ., who appears to have been a close friend of hers, Murphy discussed the current state of prohibition in Alberta, something she was quite passionate about, given that she believed that intemperance was the root cause of many social ills.[140] Murphy then moved on to discussing the state of the Woman's Court, which, it appears, may have been under physical construction. Of the process, Murphy noted: "So far there has been no combustion, but being Irish, and superstitious, we touch

[138] Mander, *Rebel*, 43.
[139] Murphy, *Impressions of Janey Canuck*, 40.
[140] Murphy, *Impressions of Janey Canuck*, 76.

wood."[141] This letter represents one of the rare instances in which Murphy discussed her own Irishness. It is interesting that she related it here to superstition, implying that such a trait was distinctly Irish, as opposed to other traits she may have considered more British. The expression itself is a single line, an almost off the cuff comment, which shows that Murphy's Irishness was a common part of her identity, one that she did not feel a constant need to reinforce or to highlight.

In another correspondence, an executive member of the Juvenile Court in Saskatchewan wrote to Murphy: "You are a dear. I just received your little note with a touch of comedy in it (this is the Irish of you) and the clipping in the paper."[142] The man carried on with his missive, discussing at length a newspaper clipping he would have liked to have reprinted as it supported the idea that increases in delinquency were not related to the appointment of a woman judge. The mention, once again in passing, of Emily's Irishness and its relation to her sense of humour similarly shows that there are certain traits that would have been attributed to her Irish background and that these were acknowledged not only by herself, but by those who knew her. It is significant that others would point to Murphy's Irishness as it shows that her lineage was a known fact and that it did serve to characterize her and remained important in her later life.

In order to better understand Murphy's relationship with her own Irishness, we can examine the many scrapbook volumes her daughter compiled. Mander notes Murphy's use of scrapbooks when documenting the birth of Doris, a tradition her daughter, Evelyne Gowan, upheld.[143] What is most noteworthy from the contents of these books is how diligently they record the legacy of the Gowan family. Indeed, several pages of the scrapbooks (which count four volumes in total)

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[141] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 27, Personal Papers: A-M, "Letter to Mr. Coone, ESQ., March 5."
[142] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 27, Personal Papers: A-M, "Juvenile Court letter dated November 16, 1924."
[143] Mander, *Rebel*, 34.

reference different members of the Gowan family and trace the development and accomplishments of the Orange Order.

One clipping, for example, announces the death of one Hunter Gowan. Not the Hunter Gowan of the 1798 rebellion, but a relative of the Canadian Gowan family, born in Montreal in 1846.[144] Another clipping documents the purchase of a new property for the Gowan Loyal Orange Lodge. The large property, pictured in the clipping is described as befitting of the important Gowan name.[145] A small newspaper clipping announcing the death of Emily Murphy's mother, Emily Ferguson, makes sure to mention that she was the youngest daughter of Ogle Gowan. This small clipping is sandwiched between a story claiming Murphy received a set of Ukrainian easter eggs and a clipping about G. T. Stomer's death.[146] In their study of various mediums for storytelling, Elizabeth Delacruz and Sandy Bales explain that "scrapbookers collect objects, write stories of shared histories, and creatively assemble their collections of photographs, memorabilia, and decorative and symbolic motifs that reference valued people and events."[147] Scrapbooks, they contend, transcend the barriers of time and traverse many eras, putting ancestors in conversations with their living relatives. Evelyne Gowan's scrapbook collects a wealth of information about her mother, but also converses with the legacy of her great grandfather. Carrier of his name, she seems to have understood the significance of the Gowan name and the importance of preserving it.

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[144] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 72, Scrapbook one - Articles by and about Emily Murphy, "Hunter Gowan Dies at Coast."
[145] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 72, Scrapbook one - Articles by and about Emily Murphy, "New Home of Gowan L.O.L, No.1."
[146] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 72, Scrapbook one - Articles by and about Emily Murphy, "DEATHS- Toronto, June 1911."
[147] Elizabeth Delacruz and Sandy Bales, "Creating History, Telling Stories, and Making Special: Portfolios, Scrapbooks, and Sketchbooks," *Art Education* 63, no. 1 (2010): 35, https://doi.org/10.1080/00043125.2010.11519051.

Murphy's publication from her time in England shows that she had a strong association to the Protestant faith and that it defined her identity. Her personal letters and scrapbooks also show that she maintained ties with her Irish-Protestant background. Her musings also show that she was highly intelligent and was capable of critical thinking that extended beyond the established boundaries of religious denominations. All of these aspects of Murphy's early life come into play when examining her life and work in Alberta, specifically, her role as Police Magistrate for Alberta's first women's court. Her characterization of lower-class individuals and the reasons for their various predicaments also figure prominently in her later work.

Chapter 2 — Emily Murphy: Social Advocate and Police Magistrate

"The vision of the pioneer
unlike other visions is one
that makes for contentment"

— Janey Canuck, 1926

Emily Murphy was a pioneer. She was instrumental in the progressive change of Alberta's legal system and revolutionized how the province treated women's rights. She was constantly searching for knowledge and ways to apply it. Though our examination of her travel account focused chiefly on how she chose to describe people and place and how they related to her sense of identity, class, and nationalism, *The Adventures of Janey Canuck Abroad* offers many more telling details about Murphy's personality. She appears to have been well read and knew a great deal about history.[148] The following chapter examines Murphy's advocacy and career as a Police Magistrate for Alberta's first Women's Court. It examines not only what Murphy accomplished, but why she accomplished it. In trying to better understand the social forces that drove her advocacy, this chapter looks to better understand Murphy's relationship with Canada's first-wave feminist movement as well the continued development and influence of her views on class, gender, nationalism, and sexuality.

Emily Murphy: Advocate

Murphy officially entered Canada's political scene when she and Arthur moved to Western Canada but she had been surrounded by it from a young age. The Murphys first arrived to Manitoba in 1903, then travelled to Saskatchewan before settling in Edmonton, Alberta in

[148] There are many passages in *The Impressions of Janey Canuck* in which Murphy describes historical events in great detail, showing she was intelligent and well educated. For example, see Murphy, *Impressions of Janey Canuck*, 49-50.

1907.[149] Emily was highly impressed with the potential of Western Canada and the people who lived in these provinces, impressing upon her readers that the young ambitious men of the East found themselves now in the West.[150] Murphy described the physical strength of the men and women at length, applauding their ability to perform hard physical labour. She admired hard work and saw in it a value in it.[151] When the Murphys visited the Dukhobors — a Christian Russian community in Saskatchewan — she admired the simplicity of the women's homesteading.[152] She kept a record of her first few years in Manitoba and Alberta in *The Adventures of Janey Canuck in the West* (1910), a diary-like publication similar to the one she had penned to document her time in England.

Urged by his physician to leave the ministry and take up a career that would bring him to the great outdoors, Arthur began work on the timber limits in Swan River, Manitoba.[153] As they travelled across the province so Arthur could meet with various businessmen, Emily met their wives and struck up many interesting conversations.[154] She quickly became fond of the women she met. She was appalled, however, when one woman explained that she was now destitute as her husband had deserted her and sold their estate.[155] To her bewilderment, this was legal. Using her influence as an acclaimed author and her position in the community as a businessman's wife, she became highly involved in the promotion of a Dower Act for the province of Alberta in

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[149] Mander, *Rebel*, 63.
[150] Murphy, *Janey Canuck in the West*, 9.
[151] Murphy, *Janey Canuck in the West*, 59.
[152] Murphy, *Janey Canuck in the West*, 74.
[153] Mander, *Rebel*, 61.
[154] Nancy Millar, *The Famous Five: Emily Murphy and the Case of the Missing Persons* (Alberta: The Western Heritage Centre, 1999): 11.
[155] Millar, *Case of the Missing Persons*, 12.

1910.[156] Women were only entitled to marital property if they became widowed.[157] Given their important role in homesteading and the maintenance of farms, Murphy thought women should be better protected should their husbands decide to divorce or desert them.[158] Thus, Murphy became a strong advocate for an act that would protect women who found themselves in these types of situations.

With the Edmonton Local Council of Women, she submitted a petition to local government officials to have such an act created. Their first attempts were unsuccessful. Even when Murphy attended parliament and delivered a ninety minute speech advocating for the "An Act Respecting the Married Woman's Property," which she had drafted with opposition member R. B. Bennett, the Act was unsuccessful.[159] The government in power, led by Premier Rutherford, passed its own Married Women's Act. This act fell short of the intended mark and Murphy remained involved in ensuring the law eventually met the needs she had identified it should. She wrote a letter to the chairman of the Legal Bills Committee in which she explained that the Married Women's Act, as first proposed at the assembly, failed to consider that the ask in question was for a wife or widow to be entitled to a third of all of her husband's while he was alive[160] The Married Women's Act simply granted women the right to petition the court for a larger share of their husband's estate if they felt the will did not allocate them a significant share.

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[156] Catherine Cavanaugh, "The Limitations of the Pioneering Partnership: The Alberta Campaign for Homestead Dower, 1909–25," The Canadian Historical Review 74, no. 2 (June 1993): 201.
[157] Cavanaugh, "The Limitations of the Pioneering Partnership," 203.
[158] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 33, Manuscript Articles – About marriage settlements, "About Marriage Settlements, 2."
[159] Cavanaugh, "The Limitations of the Pioneering Partnership," 210; Millar, *Case of the Missing Persons*, 14.
[160] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 25, Women's Law, "Murphy to the Chairmann of the Legal Bills Committee."

It still made no provisions for women whose husbands were still alive.[161] She wrote this letter on the behalf of the Edmonton Local Council of Women and it in, mentioned a conversation she had with liberal Premier Rutherford.[162] This exchange and Murphy's ultimate success with the Dower Act show that she was involved at some of the highest levels of local government, with noted access to the province's premier and the ability to reach important decision makers in the Province.[163] We can also note that Murphy had intricate knowledge of the act itself and of the legal proceedings surrounding its adoption, she actively assisted to parliamentary session during which the act was debated and is said to have spent hours in the legislative library researching different marriage laws across the country.[164] Murphy's involvement in the cause was not cursory, though she may not have had the legal ability to pass the bill herself, she did everything she could to ensure that it would eventually be passed.

Murphy's advocacy for the rights of married women highlights her consideration for their role in the home, a key element in the development of her maternal feminist ideologies. In securing women's rights, she also secured those of their children. Many women found themselves saddled with the care of multiple children and no spousal support. This is something Murphy knew of before she began her career as a Magistrate, but which she would witness first hand once her career on the bench began.[165] Murphy was herself a loving and devoted mother

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[161] Cavanaugh, "The Limitations of the Pioneering Partnership," 210-212.
[162] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 25, Women's Law, "Murphy to the Chairmann of the Legal Bills Committee."
[163] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 25, Women's Law, "Murphy to the Chairmann of the Legal Bills Committee."
[164] Millar, *Case of the missing persons*, 12.
[165] Many of Murphy's correspondence and Magistrate notes contain detailed court interviews which see women caring for their children without support from their husbands. For example, see City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 3, Police Magistrate Correspondence - C, "Juvenile Court - Mrs. Gustina Carlson."

who took great pride in her role as the wife of a prominent minister and later businessman. In a manuscript she titled *Partnership in Marriage* (undated), Murphy called for the regulation of common marital property rights in Western Canada claiming that "the work of a wife who rears a family, who contributes to the upbuilding of a home; who aids and comforts her husband, is worthy of the most valuable consideration."[166] The role of the woman in the home was important to Canadian nationalists and maternal feminists alike. Allen claims this differentiates Murphy from some first-wave feminists who sought equality for the liberation of women and an expansion of their role outside the home through the figure of the "New Woman," — who would only subject herself to motherhood if it did not impede on her own personal liberties — but is in line with the predominant thoughts of maternal feminists in Alberta at the time.[167]

Canada's suffrage movement (1916-1922) offers an opportunity to examine Canadian constructions of womanhood and the close relationship between self-determination and motherhood in the country's feminist movement. Though Murphy was not as actively involved in the suffrage movement as her friend and later colleague Nellie McClung, a broad examination of the movement's views and values allows us to identify the type of woman maternal feminists saw as deserving of enfranchisement. More importantly, it also allows us to identify the type of woman that was considered undeserving of the vote and therefore represented a danger to the definition of the Canadian "Mother of the Nation." Mallory Allyson Richard notes that maternal feminists in Western Canada "shied away from a radical reconsideration of rights and citizenship

[166] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 52, Manuscript Articles – Partnership in marriage, "Partnership in Marriage, 8."
[167] Allen, *Feminism and Motherhood,* 66; De Graff, "Motherhood and Suffrage," 32.

by focusing on expanding the franchise just enough for themselves to enjoy it."[168] In doing so, they conveniently excluded certain groups — such as the Indigenous and non-Anglo-Europeans — from the battle for enfranchisement.[169]

Though Murphy believed in enfranchisement and was herself described as being the embodiment of the "New Woman" because of her writing and activism, it is clear that motherhood and its significance in nation building efforts stayed at the forefront of her mind and influenced her support of certain of women in Canada, particularly those women who she believed could contribute to the building of a strong nation.[170] In a manuscript she published much later in life entitled *Mothership* (1931), Murphy detailed the joys of motherhood, remembering the time she became a mother as being one of "the finest joys of her life."[171] She continued on to highlight that any woman who was not appreciative of her role as a mother or who complained of its burdens "[was] not really a good mother, or a good citizen."[172] Here, Murphy once again drew a link between motherhood and its value to good citizenship. Given this manuscript was only published in 1931, two years before her death, we can see Murphy maintained ideas regarding the importance of motherhood throughout her life. Her deep appreciation for motherhood and critical words for those who took the role for granted may have resulted from her own loss of two children. Particularly heartbreaking for Emily was the death of

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[168] Mallory Allyson Richard, "Exploring the 'Thirteenth' Reason for Suffrage: Enfranchising 'Mothers of the British Race' on the Canadian Prairies," in *Finding Directions West: Readings that Locate and Dislocate Western Canada's Past*, ed. George Colpitts and Heather Devine (Calgary: University of Calgary Press, 2017), 127, https://doi.org/10.1515/9781552388822-008.
[169] De Graff, "Motherhood and Suffrage," 30
[170] Kulba, "New Woman, New Nation," 118-119
[171] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 50, Manuscript Articles – Mothership, "Mothership (1931), Canadian Home and Garden, 1."
[172] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 50, Manuscript Articles – Mothership, "Mothership (1931), Canadian Home and Garden, 2."

her daughter Doris, who died of croup at the age of six, shortly after the family returned from England and before the Murphys began living in Alberta.[173]

Despite the widespread applicability of the Dower Act, Murphy's support of Canadian women was selective and largely based on class and race, a fact that remained true throughout her career as a Police Magistrate. The following section examines Murphy's role as the first woman Police Magistrate in the British Empire to see how her care for women developed throughout her career and was conditional on her conceptions of maternal feminism, religion, and nationalism.

Emily Murphy: Police Magistrate

Though the Women's Court was not Murphy's idea, she begrudgingly accepted the position of Magistrate from Alberta's Attorney General Charles Winston Cross and proved to be an understanding and efficient judge.[174] During her tenure on the bench from 1916 to 1931, Murphy heard a variety of cases and took diligent notes. As such, there exists a wide array of resources that we can access to examine Murphy's time as a Police Magistrate. Of particular interest, and which is at the centre of John McLaren's article "Maternal Feminism in Action - Emily Murphy, Police Magistrate," is Murphy's Magistrate notebook. The notebook details every case that Murphy heard in Alberta's Women's Court from October, 1917 to November, 1918 noting the plaintiff, defendant, charge, plea, and outcome of the trial. It also details any punishments or fines as well as some of the judge's personal notes about each case.[175]

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[173] Mander, *Rebel*, 60.
[174] J. McLaren, "Maternal Feminism in Action," 235
[175] The notebook is listed as being volume two of three, with Murphy making several mentions to volume one in the notebook's memos. Unfortunately, volume one and any subsequent volumes are unavailable for consultation.

Where possible, it seems as though she attempted to reconcile opposing parties and acted in the best interest of the women and children who were affected by the proceedings.[176] What McLaren fails to make note of, however, is a pattern of institutionalization that emerges when taking a closer look at Murphy's sentencing of women, especially those she identified as sex workers. McClung herself described Murphy as being "sympathetic to the wrong-doer and anxious to win her to a better way of living;" often, this better way of living manifested in the form of group homes and social housing.[177]

In a case Murphy presided over on November 9th, 1917, Annie Nelson, aged 20, was charged with vagrancy.[178] Murphy interviewed the young woman and found that she had been living with a man for four years as his wife, but that the man had deserted her, leading the young girl to fall into a life of sex work. Murphy found the young woman guilty of her charge and remanded her to the Social Services Home, which appears to have been a group home for young women. On November 20th of the same year, Annie Salant, whose husband had left to work in the mines, was charged with night walking.[179] After initially trying to reconcile the husband and wife, Murphy instead opted for the woman's institutionalization at the Social Services Home as she had contracted gonorrhoea. By relying on the Social Services Home, Murphy's goal was to help women become better citizens. It appears she believed they would receive the guidance and care they needed from "good Christian women" to become better women themselves.

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[176] J. McLaren, "Maternal Feminism in Action," 240.
[177] Nellie McClung, "Introduction," in Hope Sanders, Byrne, *Emily Murphy: Crusader* (The MacMillan Company of Canada, 1945), XV.
[178] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Annie Nelson."
[179] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Mrs. Annie Salant."

Murphy was committed to guiding young women towards better lifestyle choices. “Don't criticize her. Perhaps it is a model she needs,” she penned in her personal motto book.[180] The quote is a testament to Murphy's commitment to guiding young women towards better lifestyle choices. Young Stella Bailey, for example, was to remain in the Social Services Home “under the influence of the fine, Christian influence [of] Mrs. Askew,” the matron of the home.[181] Murphy informed the young girl's father that this would likely be the “turning point in her life” and insisted that Stella was too young and well mannered to fall victim to “night walking.” In this case, institutionalization was key to safeguarding the girl’s good nature.[182] The Social Services Home, as opposed to various prisons such as McLeod and Fort Saskatchewan, offered an opportunity for women to be rehabilitated. Whereas the prison system remained an option for the punishment of crimes, it appears Murphy remanded women to the Social Services Home when she saw in them an opportunity to be saved. Who Murphy decided was worth saving depended largely on the crimes they committed and the degree of their recidivism.

Though it seems Murphy tried to remain a champion of women, her patience sometimes ran out. Mrs. Catherine Vance appeared before Judge Murphy twice in the span of eight days. Arrested for night walking and vagrancy, Murphy wrote at length about Mrs. Vance upon first sentencing her, noting that the woman's husband worked on the Canadian National Railway, and that her known associates were criminals. Murphy seemed to have agreed to remand Mrs. Vance's sentence for good behaviour and noted that:

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[180] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 70, Collected Epigrams (in 1926 Daily Journal), “Friday Feb. 12 1926.”
[181] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 2, Police Magistrate Correspondence - B, “Murphy to W.T. Bailey.”
[182] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 2, Police Magistrate Correspondence - B, “Murphy to W.T. Bailey.”

> She [Mrs. Vance] had made an engagement to meet me [Murphy] that same afternoon and assure to go somewhere away from her former associates till her husband was communicated with. She didn't keep the engagement, although I waited all afternoon. Matron tells me that Mrs. E. A. Jackson advised Mrs. Vance in her presence that she needn't leave town, that conduct force her to. I hadn't ordered her to leave town but she promised me she would do so if released on suspended sentence. Mrs. Laudry, on this contrary advised Mrs. Vance to act on my advice.[183]

This memo shows the lengths to which Murphy went to keep tabs on those she was helping. It also indicates that Mrs. Vance promised Judge Murphy that she would turn her life around. Unfortunately, her second appearance before the Magistrate happened only a week later. Once again charged with night walking and vagrancy, she was sentenced to six weeks at the McLeod jail without the possibility of paying a fine.[184] This was a particularly harsh sentence, as Murphy usually offered to have the defendant pay a fine instead of being sent to jail or saw the judge simply opt for a remand to the Social Services Home.[185] In this case, we can see a distinction between punishment and rehabilitation. It appears Mrs. Vance took Murphy's generosity for granted and her second conviction led to an immediate jail sentence, a measure very punitive in nature that was likely deemed necessary due to Mrs. Vance's recidivism.

Murphy was highly involved in Alberta's jail and asylum system. Her memos often noted that she visited the women she tried in court once they had been institutionalized. At the very least, she kept apprised of their situations once they had been sent to the Social Services Home or

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[183] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Mrs. C. L. Vance."
[184] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Mrs. Catherine Vance."
[185] There are several examples of this in Murphy's Magistrate notebook, for example, "R. vs. Mrs. Adams; R. vs. Miss Winnifred White."

the asylum.[186] Her involvement in the penal system extended beyond the occasional visit. Indeed, in a letter dated July 5th, 1918 addressed to Mr. McLean — who appears to have been responsible for the Provincial Jail — Murphy claimed to have visited the institution to write an article about the it for *The Journal,* an Edmonton newspaper. She praised the establishment for being "so well built, so thoroughly equipped, so well directed and so modern in all respects," going so far as to compliment the unnamed warden's aptitudes for his position —though she does not name the warden.[187] Impressed as she was, Murphy did offer a point of criticism: the jail offered no way to separate those women convicted of "prostitution" from those convicted of other offences such as theft or intoxication.

Sex work was an offence Murphy considered particularly dangerous. Memos from her Magistrate notebook often commented on the appearance, age, and general state of the women who appeared before her, and in many cases, were sure to highlight if a woman was suspected of being engaged in sex work.[188] Her desire to separate such women from "regular" women not only highlights her biased opinions towards sex workers but exemplifies a need to protect a segment of the population that had not yet been corrupted. In a letter addressed to A. G. Browning, ESQ., then Deputy Attorney General, Murphy highlighted a need to amend the Canadian Criminal Code so that its language applied more specifically to women. Her goal in

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[186] Though Murphy's note often do not specify exactly which asylum women were remanded to, she does mention the Ponoka asylum in several notes. The Ponoka asylum was founded in 1908 and was Alberta's leading asylum. It was later responsible for over 60% of sexual sterilization cases. For more information about Ponoka and its role in Alberta's sterilization campaign, see https://digitalarchive.mcmaster.ca/islandora/object/macrepo%3A104975#page/1/mode/2up.

[187] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 18, Conditions in Penal Institutions, "Murphy to Mr. McLean, July 5, 1918."

[188] There are several instances of this. For examples, see City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Nora Holt; R. vs. Annie Kairlias."

this case was not to create equality as it would later be with the Persons' Case; instead, the amendment aimed to ensure that police would be able to gather sufficient evidence to arrest sex workers. According to Murphy, a change in language would shift the burden of proof against an offence to the woman being charged, who would have to prove that the purpose of her pursuit of a gentleman stemmed from entertainment rather than a desire to obtain funds.[189] Murphy believed that sex work was a problem that could run rampant, with the corrupting influence extending beyond young women. Young men too, Murphy believed, could be corrupted by it, as she emphasised to Mrs. McCallum of the Women's Christian Temperance Union:

> Most people think of sex workers as following the military camps and armies, but few of us realize that their operations are being shifted to the rural districts where the Police and populace are much less watchful...
>
> I feel sure that if the farm women realized that when their husbands and sons go out as threshers to earn a little extra money that they are apt to become corrupted morally and diseased physically by these prowling sex workers who cook or are supposed to cook for the gang, they would not tolerate such a condition of affairs for a day.[190]

These descriptions of young women as "prowling" and "corrupting" influences reflect the anxieties of both maternal feminists, who believed that the future of the Anglo-Saxon race depended on the character of its women, and nationalists, who looked to define the Canadian nation through the social value of its people.[191] Murphy's characterization of sex workers and her desire to protect society from their presumed corrupting influence is an important precursor to her later support for sexual sterilization and eugenics. Murphy often presided over cases that related to sex work or "night walking," and sometimes even the maintenance of brothels. In

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[189] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 22, Prostitution, "Murphy to A. G. Browning ESQ., April 16, 1917."
[190] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 22, Prostitution, "Murphy to Ms. McCallum, October 31."
[191] Richard, "Exploring the 'Thirteenth' Reason for Suffrage," 103.

essence, she found herself in a privileged position to police sexual intercourse and ensure it remained within the confines of marriage. This acted as a precursor for her later support of sexual sterilization policies, which similarly looked to control the bodies of others. In her role, Murphy found herself in a position to put maternal feminism in action.

Murphy became highly influential through her participation in many women's organizations and she used these platforms to promote her own ideologies. She was president of the Canadian Women's Press Club from 1913 to 1920 and was an influential executive member of The National Women's Council of Canada, both of which promoted ideas of maternal feminism.[192] Maternal feminists believed that the power to civilize an entire nation began in the home.[193] In Western Canada, feminism and nationalism often intersected. In her presidential address, published in *The Yearbook of The National Council of Women of Canada: 1917-1918*, Lady Taylor — teacher, social activist, and president of the National Council of Women — claimed that "the future of Canada lies in the home" and that "upon women rests the responsibility, in a great measure, of the development of higher civilization."[194] Women found themselves at the centre of Canada's nation building efforts and their role as a civilizing force became a prominent feature of the feminist movement in the West.

Murphy used her position as Police Magistrate to highlight the importance of the role of women in the home. As such, she demonstrated a desire to rehabilitate women she considered could still contribute to the nation's civilizing mission. In a case she presided over in Juvenile Court, which saw Mrs. Gustina Carlson charged with the neglect of her four children, Judge

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[192] Sanders, *Crusader*, 346.
[193] Green, "The Rise of Motherhood," 53.
[194] *Year Book – National Council of Women of Canada*, 1917–1918 (Toronto: National Council of Women of Canada, 1894), Robarts Library, University of Toronto, 16.

Murphy questioned the wife's decision to leave her husband on several occasions: “Now, Mrs. Carson,” Murphy began, “why did you leave home on these different occasions, you know *the woman's place is at home with her husband and family*, why did you leave him,” she asked.[195] Though Murphy did later admonish the husband, calling him stingy and insisting he buy his wife a new coat, her first resort to chastising the woman is telling as it demonstrates the greater burden placed on women and their responsibility to care for the household. A woman could not fulfil her civilizing duty if she was not in the home raising children. Ultimately, Murphy attempted to reconcile the couple in court, but when the woman refused to return to her husband, she was instead institutionalized. A mere three days after the start of Mrs. Carlson's institutionalization, Murphy penned a letter to the woman's husband expressing his wife's sudden willingness to return home upon the end of her confinement.[196] In another letter she wrote on the same day to W. J. Loggie, LLB., presumably Mrs. Carson’s attorney, she claimed that Mrs. Carlson had “agreed to attend strictly to her household and the children,” which Murphy considered a victory.[197] This different aspects of this interaction, from Murphy’s condemnation of Mrs. Carson for leaving her husband, to her attempt at reconciling the couple, to her celebration of the woman’s desire to return to the home and care for her children, demonstrate a continued dedication to the social role of women as mothers. Murphy’s dedication to reinforcing the place of women in the home is directly tied to the maternal feminist ideal of the “Mother of

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[195] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 3, Police Magistrate Correspondence - C, “Interview with Mrs. Carlson.” [Emphasis my own]
[196] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 3, Police Magistrate Correspondence - C, “Murphy to Wm. Carlson, ESQ., December 7, 1917.”
[197] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 3, Police Magistrate Correspondence - C, “Murphy to W. J. Loggie LLB. December 7, 1917.”

the Nation," a notion which was perpetuated in many of the women's groups with which Murphy was involved.

Rehabilitation, however, was not always on Murphy's agenda. It is interesting to note the sentences that Murphy handed out and to whom. There were offences which were clearly considered more dangerous than others. As her notebook shows, any offence relating to the sale, distribution, and procurement of alcohol was severely punished because it encouraged the moral degeneracy of others. Similarly, pimps and johns were punished severely, often for contributing to the "degeneracy" of a child.[198] Once again, we see here examples of how Murphy was able to express her personal convictions through her work. The fight for prohibition was crucial to many twentieth century feminists. Though Murphy was not personally involved in the Women's Christian Temperance Union (WCTU) — for reasons that remain unclear, given her involvement in seemingly every other organization and the fact that she continued to work closely with the organization despite her lack of a membership — her work on social reform for women often intertwined with the work of the WCTU. For the possession of unlawful liquor, for example, Mrs. Adams was fined a total of $100, whereas Mrs. Bessie Osmond, guilty of assaulting her neighbour, was only fine $5.[199] Similarly, Mrs. Turner and Mrs. Wagner were both fined $13 for being in a state of intoxication.[200] The amount of the fines shows that intoxication and the possession of liquor were considered much more serious offences than assault. The fine for the sale of intoxicating liquor was even greater, totalling $131.50 in the case of Mrs. Martha

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[198] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Frank E, 287."
[199] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Mrs. Bessie Osmond, 3."
[200] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Mrs. Mable Turner, 11"; City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Mrs. Ella Wagner, 13"

Carlson.[201] Judge Murphy handed out a particularly heavy fine to Mrs. B. Helen for the unlawful possession of intoxicating liquor. The $300 fee appears to be higher because the case was initially dismissed on the grounds of Mrs. Helen claiming she was not the occupant of the room the alcohol was found in.[202] On her second appearance, this same argument was not allowed by the judge, and the fine was more than doubled, perhaps because it was her second offence, and perhaps also because she lied during her first appearance.[203]

What the more heavily fined charges had in common is that they led to the degeneracy of others, and by extension, of the nation, something with which Murphy was extremely concerned. Though the fines were ultimately directed by the Attorney General, Murphy's decision to prosecute these wrongdoers to the fullest extent of the applicable law, without offering leniency in the form of suspended sentences or dismissals in the way she did for some cases, shows that she considered these offenders particularly dangerous. Though in cases of "prostitution" or "night walking" Murphy opted for the institutionalization of guilty women, when it came to alcohol—which Murphy had long contended led to the vast ills of society—only punishment seemed to suffice. Though her Magistrate notebook provides insights into how maternal feminism, nationalism, and to some extent, the importance of religion factored into Murphy's work, her personal papers reveal a great deal more about the intricacies of her time on the bench.

Emily Murphy: Personal Papers

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[201] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Martha Carlson, 29."
[202] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Mrs. B. Helen, 109"
[203] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Mrs. B. Helen, 107."

Murphy kept a lot of the letters she received during her tenure as Magistrate. She corresponded often with friends and family throughout the country and also received many letters from strangers. This is an especially fascinating body of sources as it offers a glimpse into the importance of Murphy's role and the extent to which she became involved with those who stood before her in court. The various requests Murphy received from the common people of Alberta also indicate how her role was publicly perceived. John McLaren contends that the duty of the Police Magistrate "was to keep the inherently criminal and immoral tendencies of the working class under control."[204] However, Murphy's many letters from this period indicate that her role extended beyond simply keeping the working class in check and took on a public and social characteristic as well.

A look through her correspondence, both personal and in her role as Magistrate, illustrate the variety of ways in which Murphy's public position was interpreted. Some seemed to view Murphy as a woman who could do it all. Most wrote to Murphy in search of advice: legal and otherwise. What stands out in some of these letters, particularly those she received from young women, or in which she tried to advocate for them, are the domestic behaviours she encouraged. In a letter dated February 19th, 1927, addressed to a Miss V. Clinn, who complained about the cost of a recent hospital stay, Murphy encouraged the girl to "think kind, helpful thoughts like a good girl" as she ensured Miss Clinn that if she did, "all [would] be well."[205] Murphy's words are patronizing and infantilizing. She was intent on ensuring that women remained "good girls," and refrained from complaining, making them more docile and domesticated. In many other letters she received, Murphy highlighted the qualities she believed were key to being "good."

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[204] J. McLaren, "Maternal Feminism in Action," 237.
[205] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 3, Police Magistrate Correspondence - C, "Letter to Miss. Clinn."

Most of these are present in letters that indicate Murphy may have taken on the role of long-distance matchmaker. Seeing so many eligible men in the Prairies wasting away with no wife to speak of — whether they were simply unmarried or widowed — Murphy took it upon herself to find good women to complement these men. It appears that Janey Canuck published a piece in the *National Monthly Magazine* which elicited the following response from a Lilian Ludgate, of England (1903): "I should like as a single lady with all that gentleman wishes (i.e. musical, homely + my age 22) to be placed in communication with the said gentleman. Photograph exchanged if wishing."[206] It appears Murphy may have posted an advertisement for a single man in the Prairies to find a good wife, and it appears was successful. Another letter offers a similar response from a Montreal spinster, who claimed to have been charmed by Murphy's descriptions of Manitoba and wished to connect with the gentleman in question. She was sure to include that she believed "women are best occupied when engaged in the four K's, cooking, kitchen, children, church."[207] In another letter she received from a Mrs. G. W. Stamp (1917), Murphy was informed of a widowed man of 50 years of age, who appeared to be a very good neighbour. She was asked if she happened to know "some respectable old maid about 40 or 45 who would like to get a good home and a good husband."[208] In a follow up letter, we can gather that Murphy responded and did indeed ask to meet the man.[209]

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[206] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 27, Personal Papers: A-M, "Lillian Ludgate to Emly Murphy."
[207] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 28, Personal Papers: N-Z, "Hattie Rogers to Emily Murphy."
[208] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 27, Personal Papers: A-M, "Mrs. G. W. Stamp to Emily Murphy, May 17,1917."
[209] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 27, Personal Papers: A-M, "Mrs. G. W. Stamp to Emily Murphy, June 4, 1917."

Whether Janey Canuck meant for her article in *The National* to attract the attention of single women or not, the attributes that the women highlight are telling of what a "good" woman should look like. Each of the young women who responded to the call emphasizes that she had many talents and an interest in homesteading. The women both also appeared to be proper ladies. Though Lilian had a decent amount of money to substantiate her worth, the other woman, Hattie Rogers, was "poor but proud" and boasted a good education and Protestant family. These letters emphasize the sort of good behaviour Murphy required of Miss Clinn. Though both women described themselves as good looking, the majority of both appeals focused on an aptitude for household chores and an up-to-date record of outstanding conduct. It appears Murphy wanted to create unions between good women and decent men in order to capitalize on the potential of the West as the future of the Canadian nation. In itself, this was an expression of positive eugenics. Murphy's emphasis on good behaviour as a key part of reproduction is essential to consider when we examine her later support of sexual sterilization. As we have seen from her writings in England, Murphy was certainly conscious of class and class differences, and though she tried to help those who were part of the popular class, we have also seen that her generosity had its limits. Ultimately, when it came to ensuring the future of the Canadian nation, it appears Murphy wanted to ensure that those who reproduced would produce "fit" offspring.

Though Murphy remains one of the most steadfast advocates for women's rights in Alberta, as we have demonstrated through her involvement in the promotion of the Dower Act and her support of the suffrage movement, several instances throughout her career as Police Magistrate show that her ideas surrounding class, gender, religion, and nationalism remained rather unchanged from her time in England. Though she was herself a working woman, Murphy continued to uphold the maternal feminist belief that women could best serve their nations from

inside the home. Though she believed that some women could be rehabilitated, it is clear that this courtesy did not extend to every woman, and there were some offences she considered too severe to come back from. What emerges from this examination of Murphy's career is that it placed her in a position to examine many of the city's most insidious vices. Drugs, alcohol, and insanity are three of the causes Murphy would pursue most strongly towards the end of her career and until her death.

Chapter 3 — Emily Murphy and Eugenics in Canada

"You may have noticed that
good breeding covers a multitude
of deficiencies in either a woman
or a horse"

— *Janey Canuck, 1926*

Murphy was beyond a doubt one of the great first-wave feminists of her time. She does not, however, ascribe to our modern definitions of feminism. Though feminism, now in its fourth wave (2012-present), is defined by its inclusion of women of various races and social backgrounds and the feminist movement's globalization at the turn of the twenty-first century has increasingly encouraged advocacy for the rights and freedoms of all women, feminism's first-wave (1848-1920) and second wave (1960-1980) were largely dominated by white middle class women of British descent.[210] As such, there came a time during the interwar period where ideas of class, race, motherhood, and feminism conflated.[211] Waves of immigration and the heavy death toll of the First World War, coupled with a declining birth rate amongst English Canadians of British descent, exacerbated fears of social degeneration.[212] As a result, the feminism of the interwar years became increasingly defined by conceptions of race which were justified through presumptions about hereditary traits.[213] Ideas of "race suicide" associated with declining birth rates amongst the Canadian population led to a desire for its women not only to control their own bodies, but the bodies of other women.[214] Murphy's existing prejudices concerning the lower class, which we have established existed throughout her early adulthood

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[210] "The Third Wave of Feminism," *Encyclopaedia Britannica*, last modified March 17, 2025, https://www.britannica.com/topic/feminism/The-third-wave-of-feminism.
[211] A. McLaren, *Our Own Master Race*, 7.
[212] McLaren, *Our Own Master Race*, 53.
[213] McLaren, *Our Own Master Race*, 50.
[214] Gibbons, "'Our Power to Remodel Civilization,'" 134.

and persisted throughout her career, culminated in her involvement with Alberta's Sexual Sterilization Act in 1928.

The following chapter illustrates how ideas of Anglo-Saxon racial purity, issues surrounding class and vice, and first-wave feminism became the perfect breeding ground for Emily's support of the eugenics movement in Canada. It will examine the racialized language Murphy sometimes used in her Magistrate notes in parallel with her famous book on Canada's first drug crisis *The Black Candle* (1922). Though *The Black Candle* dealt primarily with Canada's growing drug problem, Murphy's association of drug use with specific groups, as well as her concern for drug induced feeble-mindedness echoed the concerns she voiced with regard to population control. The chapter examines various newspaper publications in which Murphy highlighted her support of the Sexual Sterilization Act in relation to her writings on race and insanity. By examining these items in parallel, it will underscore a continuity of ideas that began during Murphy's early married life in England, and that she continued to perpetuate until her death in 1933.

Emily Murphy: The Anglo-Saxon Race

In her work on Murphy as a social reformer, Aphrodite Karmitsanis relates the judge's efforts to exert social control of women to theological and nationalist ideas. Karmitsanis argues that Murphy's support of the Sexual Sterilization Act is evidence of her desire to achieve regulation and control "through the agency of the state."[215] The Sexual Sterilization Act, as a policy and as a solution for socio-economic issues, derived from failures and fears surrounding

[215] Aphrodite Karamitsanis, "Emily Murphy: Portrait of a Social Reformer," Master's thesis, University of Edmonton, 1991, 66.

existing measures of institutionalization.[216] Asylums, jails, and social homes were considered costly and a burden to society.[217] In the eyes of some reformers, sterilization alone could control the perpetuation of degeneracy within the Canadian population.

There is some evidence in Murphy's Magistrate notebook that indicates her sentencing decisions may have been racially motivated. In a few noteworthy cases, women who appeared before Murphy were described as "half-breeds" if they were of mixed Indigenous descent. Furthermore, when presiding over cases related to insanity, Murphy often made sure to note the nationality of the woman charged if she was not of an Anglo-Saxon background. There are only two instances where women are described as "half-breeds" in Murphy's Magistrate notebook. The fist comes in the case of Mrs. Emma Sinclair. Next to her notation designating Sinclair as a "half-breed," Murphy noted that Sinclair came from Spirit River and that she was a prostitute. Charged and found guilty of vagrancy, Mrs. Sinclair was committed to six months in provincial custody as she could not pay her $54 fine in cash.[218] Immediately following this was the case of Flora Pennington, also charged with vagrancy, described as a "half-breed," and sentenced to six months in provincial detention for a same $54 fine.[219] The same day, Murphy sentenced Pennington to an additional six months in detention for her role in the theft of $100.[220]

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[216] Malacrida, *A Special Hell*, 28
[217] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 72, Scrapbook one - Articles by and about Emily Murphy, "The Case for Sterilization."
[218] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Emma Sinclair, 65."
[219] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Flora Pennington, 67."
[220] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Flora Pennington, 69."

According to Murphy's notes, Sinclair would have been convicted of the same if the evidence against her had been more than circumstantial.[221]

The severity of the sentence handed out to each woman and Murphy's note that each was considered a “half breed” may suggest that her sentencing was racially motivated, especially since similar offences committed by white women were not as severely punished. The sentence of six months of incarceration is wildly disproportionate considering the monetary value of the fine each woman received. In many similar cases of vagrancy, or even in worse cases of intoxication or liquor distribution, Murphy usually fined women $100, which she then equated to a six-week prison sentence should the women be unable to pay the prescribed fine. In a case she presided over only two months after Mrs. Sinclair's, for example, Murphy fined the accused Mrs. Helen, guilty of the possession of intoxicating alcohol for sale, $304 or a six-week sentence.[222] Though this fine is particularly heavy, it is still nowhere near as severe as the jail sentences to which the Indigenous women were subjected. In a more comparable case of vagrancy, which Murphy presided over a few months before the Sinclair and Pennington cases, Mrs. Jean Delaware was sentenced to a $50 fine, which Murphy equated to a one-month prison sentence.[223] Mrs. Delaware re-appeared in front of the judge ten days later and though found guilty, her sentence was commuted.[224] Even in cases of theft, Murphy's sentences never reached the extent they did with Mrs. Pennington. In the case of Mrs. Newman, for example, tried for the theft of a

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[221] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate’s Notebook, Book II, “R. vs. Emma Sinclair, 71.”
[222] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate’s Notebook, Book II, “R. vs. Mrs. B. Helen, 109.”
[223] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate’s Notebook, Book II, “R. vs. Mrs. Jean Delaware, 19.”
[224] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate’s Notebook, Book II, “R. vs. Mrs. Jean Delaware, 27."

diamond ring valued at $80, the accused received a three-month prison sentence which was then commuted for good behaviour. Murphy's notes in this case indicated that the young girl, aged 17, “comes from a farm” and that “Mrs. Nobles appeared for the Baptist Church” on her behalf. It appears the support of a religious influence, which Murphy would have considered a positive one, played to the defendant's advantage.[225]

There are no notes in either Mrs. Sinclair or Mrs. Pennington's case that indicate their crimes were more severe than any of the others listed above, yet the sentences they were handed were far more punitive than any of the other women’s’. The only notable difference between these two cases and every other case in Murphy's Magistrate notebook is that the woman in each case is Indigenous. Though it is true that these are only two examples amongst many cases, it seems almost impossible that this correlation remains a coincidence. No other cases mention the term “half-breed,” but several of the cases Murphy presided over, especially as they pertained to accusations of insanity, made note of the defendant's nationality. These notes did not exclusively pertain to women of colour, as Murphy most often noted the nationality of Ukrainian, Polish, and German women. These instances demonstrate that race was not exclusively defined by skin colour, and depended much more on cultural identity and shared language.[226] In highlighting these instances and examining them in conjunction with Murphy's manuscript on immigration as well as her writing in *The Black Candle* (1922), we can begin to construct the consequences of these racialized ways of thinking.

Murphy's Magistrate notebook, her personal letters, and several instances in her writing show how passionate she was about vices. Intemperance was a long-time grievance of hers. In

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[225] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate’s Notebook, Book II, “R. vs. Olga Newman, 51.”
[226] A. McLaren, *Our Own Master Race*, 48.

The Impressions of Janey Canuck Abroad, examined earlier in this thesis, Murphy claimed drunkenness was at the root of all other social ills.[227] Murphy looked to control the temptation of certain vices by means of the court. As demonstrated in the previous chapter, Murphy came down hard on those who encouraged the moral downfall of society by encouraging or engaging in the sale of alcohol. But she eventually came face to face with a vice even greater than intemperance.

The recreational use of opioids began to rise in Canada throughout the nineteenth century. Until 1908, very few restrictions existed for the sale and distribution of opium-related drugs in the country.[228] According to Solomon and Green, "the decision to prohibit nonmedical opiate use stemmed not from concern about its addictive properties, but rather from a redefinition of its moral impact by some vocal reformers."[229] Drugs, they continue, "destroyed Christian inhibitions."[230] Opiate drug use had often been associated with Canada's immigrant Chinese population.[231] Chinese immigration to Canada became common throughout the 1850s during the construction of the railway. Economic hardship and what was perceived as excess immigration from China led to a growing resentment in the Canadian population, culminating in a series of anti-Asian riots in Vancouver on September 7th, 1907.[232] Recreational drug use was considered culturally distinct and did not bother the Canadian people or authorities. It was drug

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[227] Murphy, *The Adventures of Janey Canuck*, 76.
[228] Solomon R. and M. Green, "The First Century: The History of Nonmedical Opiate Use and Control Policies in Canada, 1870–1970," *University of Western Ontario Law Review* 20 (1982): 308.
[229] Solomon and Green, "The History of Nonmedical Opiate Use," 308.
[230] Solomon and Green, "The History of Nonmedical Opiate Use," 308.
[231] A. McLaren, *Our Own Master Race*, 47.
[232] Solomon and Green, "The History of Nonmedical Opiate Use," 312.

use by white Canadians that was viewed as problematic as it represented the unnatural mixing of races.[233]

Murphy came across a few cases pertaining to drug use during her career and was far from merciful towards those she found guilty. For example, in the case of Morris and Susan Pettipiece — both charged with the possession of morphine — Morris was found guilty and charged with eleven months at the Fort Saskatchewan jail without the possibility of paying a fine.[234] This was his fifth offence and he had already spent two years in a penitentiary for burglary. His wife, Mrs. Pettipiece was in for her second offence, the first having taken place less than six months prior. For her first offence, she was charged with three months of jailtime or a $50 fine.[235] For her second offence, however, Murphy was much more severe and sentenced the woman to 10 months at the Fort Saskatchewan jail.[236] Murphy seemed to loathe recidivists of any crime, as we previously saw in the case of Mrs. Vance, but the sentences she handed out to repeat drug offenders were particularly severe and illustrate her growing intolerance for the practice of recreational drug use. These cases, particularly those which involved recidivists, influenced her perceptions of drug addicts and compelled her to inform the public of the nefarious effects of excessive drug use. What she observed throughout her career inspired her to write another book, one that did not retell a jovial travel account.

In 1922, Murphy published *The Black Candle: Canada's First Book on Drug Abuse.* The first section of the publication consisted of nine articles she had penned for *MacLean's*

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[233] Solomon and Green, "The History of Nonmedical Opiate Use," 309.
[234] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "Morris Pettipiece, 225."
[235] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Mrs. Susan Pettipiece, 103."
[236] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "R. vs. Susan Pettipiece, 227."

Magazine. In it, she attempted to comprehensively examine the evolution of the growing drug crisis in Alberta and British Columbia. Ultimately, she wanted to educate the public about the extent of the crisis and the consequences threatening the nation should this problem remain unresolved. The racialized language with which Murphy characterized the drug problem shocked many Canadians when it was publicly re-examined in the 1990s.[237] Writing this time under her own name, instead of the Janey Canuck pen-name, Murphy referred to Chinese immigrants as "Chinamen" and in several instances, mimicked their mannerism of speech.[238] The nonchalance with which Murphy employs the term "Chinaman," similar, in fact, to how one might have referred to her or Arthur as "Irishmen" reminds us of the context in which Murphy was writing.

Still, Murphy's take on the drug trade illustrated some of the anxieties she held vis-a-vis the "other." In telling the story of a young white woman, Betty, who became involved with a Chinese man, Murphy could not help but express her admiration for the young man's fortitude and calm in the face of his wife's drug addiction and its associated misdemeanors.[239] Her admiration was cautious, as she warned her audience about the preservation of the white man's ascendancy: "One becomes especially disquieted — almost terrified in the face of these things — for it sometimes seems as if the white race lacks both the physical and moral stamina to protect itself, and that maybe the black and yellow races may yet obtain the ascendancy."[240] It appears that the Chinese were not only a threat in numbers and because they introduced white men to addictive drugs, but because they had a stronger moral character, one that risked overthrowing the established Anglo-Saxon ruling class.

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[237] The derogatory language used throughout *The Black Candle* was more closely examined following Angus McLaren's publication of *Our Own Master Race*.
[238] Murphy, *The Black Candle*, 121-122.
[239] Murphy, *The Black Candle*, 209.
[240] Murphy, *The Black Candle*, 210.

Murphy continued to express similar sentiments throughout her examination of the country's drug problem. Of foreign communities in general, she wrote that: “It is claimed also, but with what truth we cannot say, that there is a well-defined propaganda among the aliens of color to bring about the degeneration of the white race.”[241] She then warned Canadians and Americans alike to “consider the desirability of these [Chinese] visitors [...] and to say whether or not we shall be 'at home' to them for the future.”[242] The relationship between Canada and its Asian immigrant population was contentious. Though sought after for their ability to labour on the Canadian Pacific Railway, they were not deemed desirable citizens. Upon completion of the railway in 1885, the Canadian government instituted a $50 head tax on any Chinese immigrant arriving to Canada. This tax was raised twice, to $100 in 1900 and then again to $500 in 1903. Murphy’s warning, it seems, was in line with popular sentiments of the early twentieth century. In 1923, a year after the publication of *The Black Candle*, the Canadian government would essentially ban Chinese immigration by passing the Chinese Immigration Act, which narrowed the admission criteria for Chinese immigrants so much that it made it virtually impossible for the Chinese to qualify for immigration.[243]

Murphy also wrote on immigration more broadly in a manuscript she titled *Immigration* (undated). Though the manuscript is undated, we can assume it was written after Murphy published *The Black Candle*, as it cited a quote from the *Fort Williams Times-Journal* editor from 1925. In it, Murphy offered her thoughts on the immigration “problem” in Canada at large,

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[241] Murphy, *The Black Candle*, 186.
[242] Murphy, *The Black Candle*, 187-188.
[243] "Important Events in Asian Heritage Month," *Government of Canada*, last modified May 1, 2024, https://www.canada.ca/en/canadian-heritage/campaigns/asian-heritage-month/important-events.html.

citing briefly those who welcomed increased immigration but focusing largely on those who called for a more conservative immigration policy.

Referring to the vast territory of Canada needing to be populated and welcoming many immigrants in the early twentieth century, Murphy wrote that:

> It took no super-sense to see that if we were to hold the prodigious area as against the land-hungry Orientals and against others who, we have been pleased to designate as 'the beaten men of beaten races,' we must set about to invite to Canada those Europeans whom we felt to be in the class of desirable citizens.[244]

Citing initially both "open door" and "exclusionist" policies, Murphy then encouraged the population to consider the mental depravity of immigrants "whether British, American, or European."[245] The inclusion of British immigrants here is interesting because it shows that race was not the only determining factor in Murphy's stance on immigration and that another problem she came face to face with multiple times also burdened her: insanity. Though race certainly figured prominently in her criticism of the drug trade and Canada's immigration policies, it was far less significant to her support of sexual sterilization than the perceived danger of insanity was. Insanity was a problem, it seems, that affected all races of immigrants.

Emily Murphy: The Question of the Insane

It appears that in presiding over so many cases related to it in her court, Murphy became weary of insanity and feeble-mindedness. From the notes she took during cases where defendants were charged with being "Insane and Dangerous," we can see that she was quite familiar with different mental afflictions and that she seemed to believe insanity was hereditary. Before we

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[244] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 45, Manuscript Articles – Immigration, "Immigration, 2"

[245] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 45, Manuscript Articles – Immigration, "Immigration, 2"

continue our examination of these cases, it is important to definite both insanity and the concept of feeble-mindedness as they would have been understood in the twentieth century. A 1918 article by Ping Ling, edited by American psychologist G. Stanley Hall and presented to his Pedagogical Seminary explains the difference:

> Feeble-mindedness may be defined as a phenomenon of imperfect and arrested mental development [...] when we say a person is feeble-minded, we mean that his mental power has failed to reach its normal development [...] It should be understood that there is a great distinction between feeble-mindedness and insanity [...] Insanity is a clinical manifestation of intellectual and emotional disorders, the victim of which not only stops where he is in his mental development, but has lost a part of what he once had. Feeble-mindedness is a state of permanent impairment of the intellectual faculties.[246]

It is important to consider feeble-mindedness as something that is present from birth, since this is closely related to the eugenic idea that such a trait could be inherited. It is also important to acknowledge that according to these definitions, insanity is something that can be avoided, that it is a sudden onset affliction. Though Murphy may not have been familiar with Ping specifically, his ideas reflect the consensus of the time regarding mental health and such ideas would have definitely reached her. Certainly, her writing in *The Black Candle* indicates that she was familiar with legislation in the United States, as she devoted several chapters to the development and control of the drug trade in the United States. She was also familiar with the Canadian Criminal Code through her work, and through her familial connection to James Robert Gowan, one of the code's authors. Faced with many cases of insanity, Murphy began to consider how its spread could be controlled and how the degeneration of the population could be avoided.

We can examine Murphy's thoughts on insanity through the cases she presided over. In notes she took when presiding over the case of Raymond Chisolm, one of the rare men to appear

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[246] Ping Ling, "Feeble-Mindedness and Heredity," *The Pedagogical Seminary* 25, no. 1 (1918): 1–2, https://doi.org/10.1080/08919402.1918.10534470.

before her, Murphy claimed that the juvenile delinquent was a "masturbator" and that she requested a test of his sanity, as there was "history of insanity in [the] family."[247] In the case of Elizabeth Giebelhaus—who Murphy made sure to note was Russian—she notes that the woman's daughter has had an attack of insanity, and that one of her sons has also been a patient at the Panoka asylum.[248] In the case of Ethel Dawson, Murphy noted that the woman's religious mania was thought to come from her aunt in England.[249] Again, in the case of Mary Puzuzuk, Murphy noted that the woman had become violently insane without warning, but that she had a brother and sister in Austria who were also insane.[250] These are but some examples of a pattern that is repeated throughout the Magistrate's notebook. Murphy, like many others at this time, believed there was a direct link between insanity and heredity. Her persistence in noting the genealogy of the accused insane shows that she had already held eugenic beliefs before she started advocating for the implementation of sexual sterilization.

Murphy was also diligent in noting the nationality of the accused, which tells us two interesting things. First, that conceptions of race were not only tied to visible characteristics, but that they were defined by cultural factors as well.[251] Second, that the connections she made with regard to immigration and insanity in *The Black Candle* first stemmed from what she witnessed during her time as a Magistrate. To see where such ideas led Murphy, we must turn to the

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[247] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "Raymond Chisolm, 275."
[248] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "Mrs. Elizabeth Giebelhaus, 293."
[249] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "Ethel Dawson, 215."
[250] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 69, Police Magistrate's Notebook, Book II, "Mary Puzuzuk, 197."
[251] McLaren, *Our Own Master Race*, 48.

various newspaper publications and addresses in which she publicly advocated for the sterilization of the mentally insane and feeble-minded in the 1920s.

Murphy was on the executive of the Canadian Social Hygiene Council, serving as Vice-President and advisory member.[252] The organization was created by Dr. Gordon Bates, a Toronto physician, with the goal of educating the population about the spread of venereal diseases and address issues related to sex work.[253] It eventually evolved and became dedicated to preventative health measures, such as vaccination. The term "social hygiene" has proven difficult to define. Though initially associated with venereal disease in the United States, the term seems to have a much more expanded meaning in Britain where the term became associated not only with moral reform, but social purity, feminism, alcoholism, and feeble-mindedness.[254]

In Canada, it appears the movement was influenced by both American and British conceptions of social hygiene, as it originated as a force to combat venereal disease, but transformed into one that was highly concerned with issues of feeble-mindedness and the construction of a "stronger and healthier" nation.[255] A clipping in Murphy's scrapbook illustrates the organization's multifaceted mission. In it, the Honourable Mr. Justice Riddell, Justice of the Supreme Court of Ontario, and president of the Canadian Social Hygiene council contended that social hygiene was a science "concerning human beings and the means by which, as individuals and as a race their greatest possibilities, physical, mental, and moral, may be developed both in

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[252] Sanders, *Crusader*, 346.
[253] Catherine Carstairs, Bethany Philpott, and Sara Wilmshurst, *Be Wise! Be Healthy! Morality and Citizenship in Canadian Public Health Campaigns* (Vancouver: UBC Press, 2019), 5.
[254] Carstairs, Philpott, and Wilmshurst, *Be Wise! Be Healthy!*, 5.
[255] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 72, Scrapbook one - Articles by and about Emily Murphy, "The Honourable Mr. Justice Riddell."

this and future generations."[256] The reference to multiple generations, as well as the allusion of the "greatest possibilities" of the race are reminiscent of eugenic ideals.

On the topic of sexual sterilization, Murphy had much to say. Her support of eugenic methods as a way to address issues of social degeneration and feeble-mindedness was adamant and widespread. She published many newspaper articles on the topic and was invited to speak at many conferences. Murphy first broached the topic of feeble-mindedness in an article she published in *MacLeans* in 1919 entitled "The Woman's court." In the article she claimed that "much of the delinquency comes from feeble-mindedness" and that in such cases, the attempt to rehabilitate individuals with probation were futile.[257] She then became Vice-President of the Social Hygiene Council and her support for sterilization in particular seems to have increased in 1926 and 1927, at which point she still held her position as Magistrate.

Several newspaper clippings cite a speech Murphy gave at Calgary's City Hall in May, 1926. During this address, Murphy highlighted the crisis faced by mental institutions in Alberta. One publication, from Calgary's *The Albertan* claimed that Murphy was most qualified to speak on the subject given her appointment the year before to a committee commissioned by the Lieutenant-Governor tasked with the inspection of all jails, asylums, and mental sanitariums in the province of Alberta. The committee was to report its findings and make suggestions related to them directly to the government.[258] Murphy was obviously very involved in the province's care for the mentally ill. It appears one of the committee's chief conclusions was that the

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[256] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 72, Scrapbook one - Articles by and about Emily Murphy, "The Honourable Mr. Justice Riddell."
[257] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 72, Scrapbook one - Articles by and about Emily Murphy, "The Woman's Court - *McLeans*."
[258] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 72, Scrapbook one - Articles by and about Emily Murphy, "Work at Ponoka and Red Deer Hospitals, May 1926."

Province's asylums were overrun—a fact that has been confirmed by recent studies of Alberta's asylum system.[259] Even though she strongly believed that insanity was hereditary, Murphy proposed two solutions. The first was that youth, especially those of marrying age, should be educated and informed about heredity so that they were properly armed to ask the correct questions about the kind of family they were marrying into. According to Murphy, it was the individual's responsibility to ensure that the union would not lead to the perpetuation of feeble-mindedness.[260] She related this solution to a "duty" young people "owed to the nation."[261] Her suggestion that individuals should be mindful of who they chose to reproduce with is a form of positive eugenics because she suggested certain individuals with desirable characteristics should avoid reproducing with those who present undesirable characteristics, essentially encouraging the breeding of the "fit" to support a stronger nation. This is an example of Murphy's support for the eugenic movement that directly related to her ideas about nationalism.

Murphy, however, also promoted methods of negative eugenics. She strongly urged the government to consider the sterilization of the insane upon their release from the hospital. This was, according to Murphy, an ideal solution, as it guaranteed that the feeble-minded would not be able to reproduce, and thus, issues of overcrowding in the asylums would not be exacerbated.[262] The reasoning behind this proposed solution is particularly interesting, because it

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[259] For more recent studies of Alberta's asylum system and its history, see Claudia Malacrida, *A Special Hell: Institutional Life in Alberta's Eugenic Years* (Toronto: University of Toronto Press, 2015) and Jack Martin, *Hometown Asylum: A History and Memoir of Institutional Care* (Regina: University of Regina Press, 2023).
[260] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 72, Scrapbook one - Articles by and about Emily Murphy, "Various clippings."
[261] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 75, Scrapbook four - Articles by and about Emily Murphy, "Sterilization of all Insane People Urged."
[262] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 72, Scrapbook one - Articles by and about Emily Murphy, "The Case for Sterilization."

does not depend on the feeble-minded being viewed as dangerous, but it does imply that they were a burden on the Alberta government which could be easily avoided with the exertion of social control and the policing of individual's bodies and sexuality. This desire to exert control over bodies had long existed in Murphy and began to be expressed when she dealt with cases of sex work.

From the few newspaper clippings in Evelyne Murphy's scrapbooks, we can see that Emily Murphy's support of sexual sterilization was complex and extended far beyond her belief in eugenic science. It appears that Murphy's support for surgical interventions stemmed from her beliefs in an individual's national duty to ensure the reproduction of a strong race. It also reflected her over-exposure to cases of insanity, sex work, intoxication, and drug use during her tenure as Magistrate. Murphy believed that such flaws were hereditary and avoidable, and believed that the problems she witnessed could be solved by ensuring "problematic" members of society were unable to reproduce. As such, her support also related to her role as a maternal feminist, where she encouraged women to become "Mothers of the Nation." Though Murphy's appeal for the education of youth was not specifically gendered, the problem of mental degeneration and feeble-mindedness in Alberta inherently was. Women were specifically targeted as being the cause of inherited mental illnesses.[263] In warning youth of the dangers of reproducing with those members of society which had been previously institutionalized, she was calling on them to engage in the civilization of the nation by ensuring their children do not inherit undesirable traits. Ultimately, Murphy never herself passed a bill to enforce sexual sterilization in the province of Alberta, but she did make sure to publicly advocate for the policy

[263] Claudia Malacrida, *A Special Hell: Institutional Life in Alberta's Eugenic Years* (Toronto: University of Toronto Press, 2015), 23.

and urged her fellow citizens to exert pressure on their local governments to ensure such a bill would eventually be passed.[264] Murphy surely had a large platform, for instance, one *Medicine Hat News* headline read "Citizens Take a Deep Interest in Address Magistrate Murphy"[265] Murphy had both a platform and an audience to speak to. She was also a credible source, as far as mental health institutions and issues surrounding "feeble-mindedness" were concerned, given both her role as Magistrate, her active participation in the Social Hygiene Council, and her appointment to the province's review board. Her previous success with the Dower Act also demonstrated that she was able to considerably influence political decision making. It is impossible to determine exactly how instrumental Murphy's advocacy was to the adoption of the Sexual Sterilization Act, or to say whether the law would have passed without her support. What is more obvious is the fact that Murphy's opinions mattered to the public, and she remained a trusted advisor for them which certainly would have had a resounding impact on public opinions regarding sterilization and "feeble-mindedness".

[264] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 75, Scrapbook one - Articles by and about Emily Murphy, "Magistrate Murphy Reports on First Investigation of Asylums and Jails by Public Committee."
[265] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 75, Scrapbook four - Articles by and about Emily Murphy, "Medicine Hat News."

Conclusion — A Legacy of Ambivalence

"Be tolerant with her faults.
God has given you eyelids as well as eyes"
— Janey Canuck, 1926

Emily Murphy's death from a diabetic coma at the age of 65 came as a shock to the country in 1933. Newspapers across the country eulogized the famous writer and activist for her role in revolutionizing women's rights in Alberta and across Canada. *The Edmonton Journal* proclaimed her as the "leader of [the] Campaign to Allow Women to Sit in Senate," and said she was remembered for being "famous as a Jurist and Writer."[266] Another correspondent for the *Edmonton Bulletin* wrote: "The first thing that flooded over me from out this numbness which refused to accept the death of Janey Canuck as a reality, was her overwhelming kindness."[267] Canadian journalist Lotta C. Dempsey penned a posthumous poem she entitled "To A Great Woman":

> Paeons of praise they sing because you stood
> High in the world, and raised one steady hand
> Against the wrongs that women suffer most
> And, being leaderless, misunderstood,
> And they shall call your name, because your pen
> Was mighty as a sword, and followed swift
> Upon long, deep injustice, and laid bare
> The jagged danger of some hidden rift.[268]

Murphy was recognized for being a great and kind woman, and for doing things most other women dared not to do in assuming a vocal, public role in the highly masculine worlds of justice

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[266] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 74, Scrapbook three - Articles concerning death of and memorials to Emily Murphy, "*Edmonton Journal,* October 27, 1933."
[267] City of Edmonton Archives, Emily Murphy Fonds, Box 2, File 74, Scrapbook three - Articles concerning death of and memorials to Emily Murphy, "*Edmonton Bulletin*, October 1933."
[268] City of Edmonton Archives, Emily Murphy Fonds, Box 1, File 31, Clippings - Death, "To a Great Woman by Lotta C. Dempsey, October 28, 1933."

and politics. In 1958, she was named a Person of National Historical Significance by the government of Canada. And in 2009, nearly eighty years after women were officially declared persons because of her advocacy during *The Person's Case*, Emily Murphy was appointed honorary senator by the Canadian Senate.

But this legacy did not remain untarnished. In a 1998 speech she gave at a charity luncheon honouring the Famous Five, Jan Wong shocked attendees when she read excerpts from *The Black Candle*, exposing Murphy's derogatory remarks towards the Chinese Canadian population to a captivated audience.[269] Those in attendance—and most Canadians alike—were shocked. How could Emily Murphy, the Canadian heroine whose sweet visage smiled at them triumphantly through the television every day on the popular *Heritage Minute* be capable of writing such hateful words? More importantly, what should we do, as a nation, about Murphy now that we knew the darker side of her feminist advocacy?

We are all guilty of presentism and of imposing our contemporary judgements on figures from the past. Emily Murphy may not be considered a feminist if she were acting in the twenty-first century. But she was not. Dying in 1933, she did not even live through the events of the Second World War, she did not witness the atrocities of Hitler and the Third Reich, nor have the chance to reexamine her position regarding eugenics considering these atrocities, as did other notable Canadians such as Tommy Douglas. This is not to say that she would have had a change of heart given her longstanding beliefs about race, empire, religion, and "the nation": rather, she never even had the opportunity. Eugenics was a new and emerging science throughout Murphy's life, and her support of its policies cannot be criticized through a contemporary lens.

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[269] Barbara Crow, "The Humanity of Heroes: The Famous Five," *Alberta Views*, October 1, 1999.

She also belonged to the middle class, and though her action impacted women from all classes, she still maintained certain ideas and preconceived notions regarding social hierarchies. She was also raised as a Protestant and came from a prominent Orange family. Her relationship with faith remained important throughout her life, especially through her marriage to Arthur, an Anglican priest. Furthermore, her Orange roots remained intact as she navigated adulthood and were certainly significant to her children, as we can see from the various clippings they included in their scrapbooks. The values that were instilled in her by both her faith and her family's legacy encouraged morality and proper social conduct. Though her advocacy had many benefits, it was still a reflection of her desire to ensure women ascribed to her white, Anglo-Saxon Protestant definition of proper social conduct.

Murphy used her prominent place in society and her role as a Police Magistrate to further her own social and political agendas and through her role, attempted to remodel civilization as she saw fit. Her attempts were influenced by the maternal feminist ideas that predominated in Western Canada and which centred “the mother” as a civilizing force within the Canadian nation. The decisions she made with regards to the rehabilitation of young women during her tenure as Magistrate for the Women's Court were influenced by her desire to preserve their respectability. In doing so, she embodied this desire to act as a civilizing force herself. The moral characteristics she upheld in her court were emblematic of her middle-class beliefs.

Her characterization, both through the courts and in her writing, of foreign-born Canadians reflected more general fears perpetuated amongst middle-class white Anglo-Saxons of “racial suicide” and of the moral degradation of the nation that was believed to be caused by immigration. In particular, her treatment of Chinese Canadians in *The Black Candle* illustrates her fear of corrupting social and cultural influences. This same phobia is present throughout

Murphy's life, and we can see it perpetuated with regard to her sentiments towards both "prostitution" and "insanity." Murphy's treatment of the insane and her involvement in the provincial asylum system is twofold. On the one hand, it shows some of her earliest inclinations towards eugenic theories and thoughts, as she clearly believed that insanity could be inherited. On the other hand, it further illustrates the extent of her racialized mindset. Ultimately, over the course of her lifetime, Murphy gave every indication that she would ultimately support sexual sterilization. Born from various fears and a misguided sense of authority with regard to the construction of the nation's population, her support is unsurprising.

It seems we have yet to collectively answer the second question posed above: What should we do about Emily Murphy? It seems Wong's speech did not stop the Senate from honouring Murphy as a senator, nor did it stop her statue from being erected in both Edmonton and Ottawa in the early 2000s. But sociologist Barbara Crow does identify this moment as being definitive in our decision to reexamine the life of our Canadian heroes, perhaps in an attempt to bring more humanity to them.[270] This second question remains a loaded one and would require another thesis entirely to answer and examine. Future work should look to compare Murphy with other historically significant figures that have landed in the same predicament, such as Tommy Douglas, William Aberhart, Ernest Manning, and Carrie Derrick—to name but a few.

Emily Murphy did not commit Leilani Muir to the Provincial School for Mental Defectives in Red Deer, Alberta, but she did institutionalize many other women who had once been there. Not only was she appointed to investigate the conditions in the asylum at Red Deer in 1926, but she recommended the confinement of women to asylums in both Ponoka and Red

[270] Barbara Crow, "The Humanity of Heroes: The Famous Five," *Alberta Views*, October 1, 1999.

Deer. It is impossible, for now, to know if these women were eventually sterilized at all, and in the eventuality that they were, if surgeries occurred before or after Murphy's death. Certainly, she strongly supported the use of surgical means to mitigate what she perceived as hereditary feeble-mindedness. Records pertaining to the coerced and forced sterilization that took place under Alberta's Sexual Sterilization Act will remain sealed until 2028, and will not be completely open until 2074. Until then, our ability to directly tie Murphy's judicial decisions to sexual sterilization will remain unknown, ensuring that this controversy surrounding her legacy is far from over.

We do not have to excuse the awful things that Emily Murphy said or did to celebrate the groundbreaking advancements she helped achieve for Canadian women. However, we must not simply gloss over these more complicated parts of her legacy. We cannot draw significant conclusions about Murphy's legacy without first uncovering the fates of those many women she remanded to the asylum and provincial school. Perhaps once their stories have been uncovered Murphy's legacy might change again. Regardless, her undeniable significance to famous and infamous times in Canadian history guarantee that Emily Murphy will remain a part of the national conversation for many years to come.

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