

“ QUALIFICATION OF ELECTORS.

“ 29. (1) Save as in this Act otherwise provided every person, male or female, shall be qualified to vote at the election of a member who, not being an Indian ordinarily resident on an Indian Reservation,—

- (a) is a British subject by birth or naturalization, and
- (b) is of the full age of twenty one years, and
- (c)
- (d)

*In the
Supreme
Court of
Canada.*

No. 8.
Factum
of the
Attorney-
General of
Quebec—
continued.

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“ QUALIFICATION OF CANDIDATES.

“ 38. Except as in this Act otherwise provided, any British subject, male or female, who is of the full age of twenty one years, may be a candidate at a Dominion election.”

If any such fundamental change had been contemplated as the placing of women on an equal footing with men there must certainly have been much consideration devoted to it at the time when the constitution to be provided for Canada was being settled. Certainly in the conferences leading up to the passing of the Act there never was any suggestion of such a possible change from the principle then to be found in the British constitution.

It cannot be overlooked in the consideration of the above quoted cases that the Representation of the People Act, 1867, was passed in the same session of the Imperial Parliament as the British North America Act, and it can hardly be supposed that if by the use of the word “ man ” in the former Act that Legislature did not intend to include women, it did so intend when using the word “ person ” in the British North America Act, this although the circumstances of the position of women had ever been the same in the two countries.

Finally it is necessary to look to the provisions of the Act itself relating to the Senate and Senators with the evidence which they furnish of the intention of the legislature.

Throughout the provisions, in speaking of senators, and the word itself is strictly a masculine term, the masculine gender alone is used. This affords a presumption that the appointment of male persons alone was intended since if so important an alteration, in then hitherto established constitutional practice, had been intended it would not have been left to depend on such a doubtful construction as might be gathered from the rule that the masculine includes the feminine when the context permits.

The privileges, immunities and powers of senators as provided in section 18 would certainly present great difficulties in the case of females. It cannot be overlooked in this connection that there is an essential difference between the status of single women and those who having entered the marriage state are under obedience to their husbands.