

“such a point. It is notorious that this right of voting has, in fact, been confined to men. Not only has it been the constant tradition, alike of all the three kingdoms, but it has also been the constant practice, so far as we have knowledge of what has happened from the earliest times down to this day. Only the clearest proof that a different state of things prevailed in ancient times could be entertained by a Court of law in probing the origin of so inveterate an usage. I need not remind your Lordships that numberless rights rest upon a similar basis. Indeed, the whole body of the common law has no other foundation.

*In the
Supreme
Court of
Canada.*

No. 8.

Factum
of the
Attorney-
General of
Quebec—
continued.

10 “I will not linger upon this subject, which, indeed, was fully discussed in *Chorlton v. Lings*. If this legal disability is to be removed it must be done by Act of Parliament.” And the judgment concluded that the Representation of the People (Scotland) Act 1868 did not confer on women any right to vote.

The incapacity of women was really recognized by the Imperial Parliament in the legislation of 1918, the Representation of the People Act, 1918, 7-8 Geo. V, c. 64, which provides:—

“PART I.

FRANCHISES.

20 1. (1) A man shall be entitled to be registered as a parliamentary elector if he, etc.

* * * * *

4. (1) A woman shall be entitled to be registered as a parliamentary elector if she, etc.

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And the Act 8-9 Geo. V, c. 47 “An Act to amend the law with respect to the capacity of women to sit in Parliament.”

30 “1. A woman shall not be disqualified by sex or marriage for being elected to or sitting or voting as a member of the Commons House of Parliament.”

The position of women in this connection in this country prior to Confederation may be briefly traced as showing both from the legislation by which it was governed and the uniform practice thereunder what may have entered into the intention of the legislature in passing the British North America Act.

40 In the Province of Canada, as erected by the Royal Proclamation of the 7th of October 1763, immediately after the conquest the Government was carried on by the Governor and a Council composed of the persons who had been appointed Lieutenant-Governors of Montreal and Trois-Rivières, Chief Justice of the Province and the Surveyor General of Customs, and eight other persons to be chosen amongst the most considerable of the inhabitants of, or persons of property in the Province.