

Privy Council Appeal No. 121 of 1928.

In the matter of a Reference as to the meaning of the word "persons" in
Section 24 of The British North America Act, 1867.

Henrietta Muir Edwards and others - - - - *Appellants*

v.

The Attorney-General of Canada and others - - - *Respondents*

FROM

THE SUPREME COURT OF CANADA.

JUDGMENT OF THE LORDS OF THE JUDICIAL COMMITTEE OF THE
PRIVY COUNCIL, DELIVERED THE 18TH OCTOBER, 1929.

Present at the Hearing :

THE LORD CHANCELLOR.

LORD DARLING.

LORD MERRIVALE.

LORD TOMLIN.

SIR LANCELOT SANDERSON.

[*Delivered by the LORD CHANCELLOR.*]

By section 24 of the British North America Act, 1867, it is provided that "The Governor General shall from time to time, in the Queen's name, by instrument under the Great Seal of Canada, summon qualified persons to the Senate; and, subject to the provisions of this Act, every person so summoned shall become and be a Member of the Senate and a Senator."

The question at issue in this appeal is whether the words "qualified persons" in that section include a woman, and consequently whether women are eligible to be summoned to and become members of the Senate of Canada.

Of the appellants, Henrietta Muir Edwards is the Vice-President for the Province of Alberta of the National Council of Women for Canada; Nellie L. McClung and Louise C. McKinney were for several years members of the Legislative Assembly of the said province; Emily F. Murphy is a police magistrate in and for the said province; and Irene Parlby is a member of

proposed was to leave out the word "man" in order to insert the word "person" instead thereof. See Hansard, 3rd series, vol. 187, col. 817.

A heavy burden lies on an appellant who seeks to set aside a unanimous judgment of the Supreme Court, and this Board will only set aside such a decision after convincing argument and anxious consideration, but having regard

- (1) To the object of the Act, viz., to provide a constitution for Canada, a responsible and developing State ;
- (2) that the word "person" is ambiguous and may include members of either sex ;
- (3) that there are sections in the Act above referred to which show that in some cases the word "person" must include females ;
- (4) that in some sections the words "male persons" is expressly used when it is desired to confine the matter in issue to males, and
- (5) to the provisions of the Interpretation Act ;

their Lordships have come to the conclusion that the word "persons" in section 24 includes members both of the male and female sex and that, therefore, the question propounded by the Governor-General must be answered in the affirmative and that women are eligible to be summoned to and become members of the Senate of Canada, and they will humbly advise His Majesty accordingly.