nothing has occurred to take it away. But the fact of its not having been asserted or acted upon for many centuries raises a strong presumption against its having legally existed, and considering that no reported decision or authority can be produced in favour of the right, that there are the opinions against it to which I have referred, and that there has been such long and uninterrupted usage to the contrary, I have come to the conclusion that there is no such right, and that women are legally incapacitated from voting within the meaning of section 3 of the Act of 1867.

Assuming, however, that the claimant was not legally incapacitated within the meaning of the late statute, the question then would arise, whether the franchise has been conferred by that Act and by force of the provisions of Lord Romilly's Act? This depends upon the construction to be placed upon the language of the Legislature in section 3 of the Act of 1867. It enacts that every "man," with certain qualifications, shall be entitled to the franchise.

In the Act of the 13 & 14 Vict. c. 21, s. 4, it is enacted that all words signifying the masculine gender shall be taken to include females, the singular shall include the plural, and the plural the singular, unless the contrary as to the gender or number is expressly provided. Now, in construing the third section of the Act of 1867 regard must be had to the whole of the enactment with a view to ascertaining whether the word "man" is there used in the sense of a person, or is equivalent to the expression "male."

By the 56th section of the Act of 1867 it is provided that the franchises conferred by the Act shall be "in addition to and not in substitution for, &c., &c."

By the 59th section it is enacted that the Act, so far as is consistent with the tenor thereof, is to be construed as one with the enactments for the time being in force relating to the Representation of the People and with the Registration Acts. By the Reform Act of 1832 the occupation franchise in boroughs is expressly given to "male persons" who shall be qualified as therein mentioned.

By section 33 of the Act of 1832 it is enacted, "That no person shall be entitled to vote in the election of a member or members to serve in any future Parliament for any city or borough, save and except in respect of some right conferred by this Act, or as a burgess and freeman, or as a freeman and liveryman, or in the case of a city or town being a county of itself, as a freeholder or burgage tenant as hereinbefore mentioned."

It is quite clear that women would not become entitled to the franchise under that Act. Now the two Acts are to be construed as one, and therefore we should endeavour, as far as possible, to put such a construction upon the latter Act as will make it consistent with the provisions of the former statute.

There is no doubt that in many statutes "men" may be properly held to include "women," whilst in others it would be ridiculous to suppose that the word was used in any other sense than as designating the male sex. We must look at the subject-matter, and at the general scope of the provisions of the later Act, as well as at its language, in order to ascertain the meaning of the Legislature. I do not think, from the language of the Act, that there was any intention to alter the description of the persons who were to vote. I should rather conclude that the object was to deal with their qualifications. If so important an alteration of the personal qualification was intended to be made as to extend the franchise to women who did not then enjoy it, and in fact were excluded from it by the terms of the former Act, I can hardly suppose that the Legislature would have made it by using the term "man." Indeed, in the very next Act, where it was intended to extend the Factory Act, females are expressly included.

The conclusion at which I have arrived is that the Legislature used the word "man" in the same sense as "male person" in the former Act, and that the word was intentionally used in order to designate expressly the male sex, and that it amounts to an express enactment and provision that every man, as distinguished from every woman possessing the qualifications, was to have the franchise.

In that view Lord Romilly's Act does not apply to this case, and does not extend the meaning of the word "man" so as to include women.

On this part of the case the decision of the Scotch Court of Session is also in point, and in that decision I entirely concur.

On both grounds, therefore, first, that women were legally incapacitated for voting for members of Parliament; and, secondly, that the section is limited to men and does not extend to women, I think that women are not entitled to the franchise, and that the decision of the revising barrister must be confirmed in this case and in the other cases which depend upon this case. But it is not a case in which costs should be given.

CHANCERY.

Briant v. Tibbut.

Practice—Leave to move to vary chief clerk's certificate, after expiration of time for moving—15 & 16 Vict. c. 80, s. 39.

Leave given to move to vary chief clerk's certificate, although application was not made until after the expiration of the eight days allowed by the order; the omission to make the application having arisen from pressure of business, and mistake as to time on the part of solicitor. [17 W. R. 274, Jan. 15, 1869.]

This was an application on behalf of the plaintiff in the cause for leave to move to vary the chief clerk's certificate notwithstanding eight clear days had elapsed since the filing thereof.

The certificate was dated on the 17th of June, and filed on the 23rd of June last.

On the 22nd of June the plaintiff's solicitor received a report from an engineer relating to the finding of the chief clerk. The solicitor had a conference with the plaintiff on the same day, and received instructions to take the opinion of counsel. The solicitor, immediately after such conference, went to counsel's chambers, but not being able to meet with him, left the papers for his advice.

The solicitor, on the 29th of June, received a message from counsel asking for an interview, but was not able, in consequence of important business out of town, to see counsel until the 1st of July, when after a long conference, counsel advised proceedings to be taken to vary the cer-