

THE ELECTION LAWS.

Neither the said 32 Vic. c. 21, nor the preceding Acts of the same session, caps. 3 & 4, defining the privileges, immunities and powers of the Legislative Assembly, and for securing the independence of Parliament, point out what shall be the qualifications of a candidate, and the previous Acts in the Consolidated Statutes on the subject have been repealed.

By the 23rd section of 32 Vic. c. 21, 1868-9, the electors present on nomination day are to name the person or persons whom they wish to choose to represent them in the Legislative Assembly. There is no restriction, as in Nova Scotia, that a candidate must have the qualification of an elector, which, among others, is that he shall be a male subject by birth or naturalization, or, as in New Brunswick, specifically, that he must be a "male British subject."

In the Ontario Act, 32 Vic. cap. 21, sec. 4, it enacts: "No woman shall be entitled to vote," but there is no restriction in the 23rd section as to the sex of the person or persons whom the electors shall choose to represent them in the Legislative Assembly, nor is there any clause in the two Acts, caps. 3 & 4, above referred to, from which any such restriction can be inferred. The 61st section of 32 Vic. cap. 21, declares, "That no candidate shall, with intent to promote *his* election, provide or furnish," &c. But by the General Interpretation Act, passed by the Legislature of Ontario, cap. 1, 31st Vic. (1867-8), sec. 6, clause 8, it is enacted that "words importing the singular number, or the *masculine* gender, shall include more persons, parties or things of the same kind than one, and *females* as well as males, and the converse."

And by the 3rd section of the same Act the interpretation clauses were to apply to all Acts thereafter passed.

Thus it would appear, that if the electors present on nomination day choose a female as a candidate, and, in case of a poll being demanded, she should be elected, she would be entitled to take her seat as a member in the Legislature of Ontario.

In this respect Ontario differs from the other two Provinces, and may be said to be in advance of both England and the United States on this point.

This difference—assuming that the above construction of the Ontario Act is correct—is one of so much discussion at the present day, that it may not be uninteresting to refer to a very important argument and decision which took place in the Common Pleas in England almost at the time the Act was under consideration in the Ontario Legislature, and which it is presumed must have come under the observation of the very able legal men in that House. The argument was commenced early in November, 1868, and judgment given in January, 1869. The case of *Chorlton*, appt. v., *Lings*, respnt., L.T.N.S., 1868-9, 534, L.R. 4 O. P. 374, 5 O.L.J.N.S. 102. The name of Mary Abbott, with a large number of other women, appeared

upon the lists of voters for members of Parliament for the Borough of Manchester. Her name was objected to and struck off by the revising barrister. Her statutory qualification otherwise than as a woman was not disputed. On appeal from the decision of the revising barrister, the case was argued by Coleridge for the appellant, by Mellish for the respondent. The decision which was to govern the other cases as well as her own was that she had not a right to vote. In the course of the argument, some observations were made by the counsel and the judges, which will aid us in the construction to be put upon the Ontario Acts, bearing in mind that the question here is not the right of the woman herself to exercise a right or privilege, but *the right of the electors not to be restricted in the exercise of their rights—that is the right of selection*. And further, whether when in a particular statute, dealing with an entire question, a particular resolution is made with regard to a particular class of persons, it does not negative the application of any other restriction to the same class, than the restriction named, assuming that in other respects the requisitions under the statute are complied with. The Ontario Statute first gives the franchise to every "male person," &c., then as if that was not sufficiently explicit, as if to remove the very doubt which has been raised in England, and to show that the consideration of woman's rights and her position had not been overlooked, it declares "no woman shall be entitled to vote at any election." When it comes to the nomination of candidates, it requires the sheriff to call upon the electors present to name the "person" or "persons" whom they desire to choose without any restriction in such selection as in the case of the franchise to the *persons* being male. By a subsequent Act, c. 4, 1869, the legislature abolishes the qualification in real estate, thus removing the inference to be drawn as to night service and the feudal tenure referred to by one of the judges in *Chorlton v. Lings*. Then assuming that the selection is of a woman of full age—a female sole—*compos mentis*—not under any restraint from infancy or marriage or any legal incapacity from crime—does she not come sufficiently under the term "person" to be within the Act. In the case referred to, Mr. Mellish in his very able argument against the construction of the English statute, which Sir John Coleridge was contending for; viz., that woman had the right to vote, because under Lord Romilly's Act, words importing the masculine gender included the feminine, says; "No one can doubt that in this Act (that is the Representation of the People Act, 1867), the word "man" is used instead of the word "person" for the express purpose of excluding "woman," thereby admitting that if the word "person" had been used (in the absence of anything else in the Act, to control it) woman would have been included." Chief Justice Bovill, in referring to the Reform Act of 1852, and to