

ELECTION LAW FOR LADIES.

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IN a note to his forthcoming edition of the Dominion Franchise Act, Mr. Thomas Hodgins, Q.C., has given a summary of the cases which throw some light on the "rights of women" in respect to their holding of public offices and their right to vote.

Some of the cases lead to the inference that the judicial assertion of the legal incapacity of women voting at Parliamentary elections draws its inspiration from Lord Coke's observations on the right of the *Procuratores Cleri*, or spiritual assistants of Parliament, to represent the clergy, because the clergy were not parties to the election of knights, citizens and burgesses. Lord Coke says (4 Co. Ins. 4):—"In many cases multitudes are bound by Acts of Parliament which are not parties to the elections of knights, citizens and burgesses; as all they that have no freehold, or have freehold in ancient demesne, and *all women having freehold, or no freehold, and men within the age of twenty-one years,*" etc. Sir William Bovill, C.J., in *Charlton v. Lings*, L. R. 4 C. P. 374, cites this reference with approval, thus:—"Lord Coke, in the 4th Institute, p. 5, treats it as clear law in the time of James I. that women were incapacitated from voting;" and after admitting that "possibly instances may be found, in early times, not only of women having voted, but also of their having assisted in the deliberations of the Legislature," he adds: "But these instances are of comparatively little weight as opposed to the uninterrupted usage to the contrary for centuries; and what has been commonly received, and acquiesced in, as the law, raises a strong presumption of what the law is."

Mr. Hodgins has with some industry and research, collected a number of references on the "Law of women's rights to hold office and vote," which he has ap-

ended as a note to the statutory definition of "Person" in his edition of the Franchise Act. And as spinsters and widows have lately obtained the right to vote, and have voted, in municipal elections, we need not be surprised should their long lost right to vote at parliamentary elections come back to them after many years. The note is as follows:—

(c) A woman is not a "person" within the meaning of the Act, and cannot appeal from the decision of the Revising Barrister: *Wilson v. Salford*, L. R. 4 C. P. 398. Women, being under legal incapacity, have no common law right to vote at Parliamentary elections, though possessing the requisite property qualification: *Charlton v. Lings*, *Ibid.* 374. "Persons disabled from voting at elections are those who, holding freehold lands and tenements, either lie under natural incapacities, and therefore cannot exercise a sound discretion, or are so much under the influence of others that they cannot have a will of their own in the choice of candidates: of the former are women, infants, idiots and lunatics; of the latter, persons receiving alms and revenue officers;" Heywood on Elections, 159. Women are disqualified at common law in Ireland: Hudson on Elections, 159; and also in Scotland "by a long and uninterrupted custom": *Brown v. Ingram*, 7 Sess. Ca. (3rd. ser.) 281. In the United States, a female who possessed all the qualifications entitling a person to vote, except that she was not a male, voted at an election for a member of Congress: *Held*, that she was rightly convicted for knowingly voting at such election without having a lawful right to vote: *United States v. Anthony*, 11 Blatch, 200. Though a woman has no common law right to vote at elections of members of Parliament, she appears to be capable of holding many public offices—such as Queen: "Queen regnant is she who holds the crown in her own right," 1 Bl. Com. 219; also Marshall, Great Chamberlain, and Champion of England, 2 T. R. 397; Constable of England, 3 Dyer, 285*b*. Anne, Countess of Pembroke, held the office of hereditary Sheriff of Westmoreland, and exercised it in person. At the Assizes of Appleby she sat with the Judges on the Bench: 2 T. R. 397, note (v). Lucy, Countess of Kent, was returning officer, and signed the indenture and return of the member for the County of York in 1412. And in 1415, Margaret, widow of Sir H. Vavaseur, also acted and signed a similar indenture. So Lady Elizabeth Copley made the return for the Borough of Gatton in 1553, and again in 1555. Dame Dorothy Packington