

United States a female who possessed all the qualifications entitling a person to vote, except that she was not a male, voted at the 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. "I trust the unanimous decision of the Scotch judges and our unanimous decision will for ever exorcise and lay this ghost of a doubt, which ought never to have made its appearance:" *Per Byles, J., Chorlton v. Lings (supra)*.

Before Lord Coke promulgated his opinion "that women having freehold" were not parties to elections, it was said to have been the opinion of the judges that a *feme sole*, if she has a freehold, might vote for members of Parliament: *Catharine v. Surrey*, cited 7 Mod. 264. Women, when *sole*, had a power to vote for members of Parliament: *Coates v. Lisle*, 14 Jac. I., cited *Ibid.* 265. A *feme sole* freeholder may claim a voice for Parliament-men; but if married, her husband must vote for her: *Holt v. Lyle*, 4 Jac. I., cited *Ibid.* 271. "The case of *Holt v. Lyle* is a very strong case": *Per Probyn, J., in Olive v. Ingram, Ibid.* 267. "Whether women have not anciently voted for members of Parliament, either by themselves or attorney, is a great doubt. I do not know upon enquiry, but it might be found that they have:" *Per Lee, C. J., Ibid.*

Women who signed charters in Saxon times may have been present at the Witenagemot, just as Judges may now be present in the House of Lords in order to advise, but not to vote: *Per Willis, J., Chorlton v. Lings*, L. R. 4 C. P. 374. "Possibly other 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:" *Per Bovill, C. J., Ibid.* "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:" *Ibid.* "Fickleness of judgment, and liability to influence, have sometimes been suggested as the ground of their exclusion:" *Per Willis, J., Ibid.*

Votes given by women at a Parliamentary election in Canada were not struck off on the mere *prima facie* evidence of the poll book: *Halton (1844)*, Patrick's El. Cas. 59. Women, not being men at all, may be struck off the poll on a scrutiny of votes: 1 O'M. & H. 159.

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 Marshal, Great Chamberlain, and Champion of England, 2 T. R. 397; Constable of England, 3 Dyer 285b. 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 (a). 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 Gattin in 1553, and again in 1555. Dame Dorothy Packington also acted as Returning Officer, and made the return of the two members for Aylesbury in 1572: *Prynne's Brev. Parl.*, 152. And in 1628 the return of a member for Gattin was made by Mrs. Copley, *et omnes inhabitantes*: *Heywood on Elections* 160. Widows and spinsters were burgesses (electors) of Lyme Regis in 1577: 2 Lud. 13.

A woman may be a Commissioner of Sewers, which office is judicial: *Callis (1685)*, 250; and Clerk of the Crown in King's Bench; 7 Mod. 270: governor of a workhouse: 2 Ld. Ray. 1014; sexton of a parish church in London: 2 Stra. 1114; keeper of the prison of the gatehouse of the dean and chapter of Westminster: 3 Salk. 2; governess of a workhouse at Chelmsford: 13 Vin. Abr. 159; custodian of a castle: *Cro. Jac.* 18, 13, Vin. Abr. 159; constable at the Sheriff's Court: 2 Hawk. P. C. c. 10, s. 36; which is an office of trust, and likewise in a degree judicial: 2 T. R. 406; gaoler: 2 T. R. 397; overseer of the poor: *Ibid.* 395.

Although it is uncouth in our law to have women justices and commissioners, and to sit in places of judicature, yet by the authorities this is a point worth insisting upon, both in human and divine learning: for in the first commission ever granted (*Genesis i. 28*), by virtue of the word, *dominamini*, in the plural, God coupled the woman in the commission with man: *Callis (1685)*, 250.

"A woman cannot be a pastor by the law of God. I say more, it is against the law of the realm:" *Per Hobart, C. J., Hob. R.* 148. Women who were housekeepers, and paid church and poor rates, were entitled to vote for sexton: 2 Stra. 1114. Women may vote for churchwardens: *Tully v. Farrell*, 23 Gr. 49. "It might be more reasonable that one or more churchwardens should be women than men; one-half the congregation are likely to be women, and a female overseer would be able to watch over their conduct, to counsel and advise them better than men:" *Per Proudfoot, V. C., Ibid.*

By 47 Vic., c. 32 (Ont.), widows and unmarried women who are in their own right rated for a property or income qualification sufficient to qualify male voters have the right to vote at municipal elections in Ontario. And by 32 and 33 Vic., c. 55 (Imp.), spinsters and widows who are rated for property are entitled to vote at municipal elections in England, but they lose that right on their marriage: *Reg. v. Harrauld*, L. R. 7 Q. B. 361. Marriage is at common law a total disqualification, and a married woman could not therefore vote, her existence for such a purpose being entirely merged in that of her husband: *Ibid.* Nor can it be supposed that the statute which was passed *alio intuitu* has, by a side wind, given them political rights: *Ibid.*

By the Roman law, when the wife passed *in manum viri* all that she had belonged to her husband; but when she did not, all her property belonged exclusively to herself: *Sandars' Justinian* 242. Among the semi-

barbaric nations of a later time, marriage was a species of partnership, in which husband and wife had each their separate rights. Any profits or purchases with their joint property were divided between them in proportion to their separate property: *Spence's Orig. Laws* 373.

By the custom of the ancient Britons "women had prerogative in deliberative sessions touching either peace, government, or martial affairs:" 3 Selden's Works 10, cited L. R. 4 C. P. 389. Coming to Saxon times we find it stated: "All *fiefs* were originally masculine, and women were excluded from the succession of them, because they cannot keep secrets:" *West on Peers*, 44, cited 7 Mod. 272. "A woman is excluded from military tenures and from councils *quia quæ audit reticere non potest*:" *Wright's Tenures* 28.

Under the common law of England, as under the Roman law, a married woman was more helpless than infants and lunatics, the two other classes of persons under disability in whose company she habitually figured in English law. Everything she acquired at or after marriage went to her husband unless she had a settlement to her separate use. She had no legal individuality apart from her husband. A *feme covert* can do no act to estop herself at law: *Per Lord Kenyon, C. J., 7 T. R.* 539. *Contra* in equity: 1 Mac. & Gor. 529.

"The policy of the law thought women unfit to judge of public things, and placed them on a footing with infants; by 7 and 8 Wm. III. c. 25 infants cannot vote—and women are perpetual infants:" *Per Strange, Sol. Gen.*, 7 Mod. 282.

But the recent legislation of England and Ontario respecting the property of married women "makes such alterations in the relation of husband and wife that it severs that unity of person and divides that compound person, which the law formerly recognized, to such an extent as to render it wrong for the courts now to apply the old principle, which was founded on unity of person:" *Per Chitty, J., in Re March*, 24 Ch. D. 222. Marriage, and the acquirement of property by a married woman, subsequent to the Acts, give the husband no estate or interest in his wife's property, nor any right to enjoy the revenues and profits thereof: *Merrick v. Sherwood*, 22 C. P. 477. And the husband having now no beneficial estate in his wife's property, cannot qualify or vote in respect of such property. And where the husband is not really desiring to use or to enter the wife's house as a husband, to enjoy the society of his wife, or to consort with her as his wife, an injunction will be granted to the wife restraining her husband from the proprietary use of the house: *Symonds v. Hallett*, 24 Ch. D. 346. "The old-fashioned notion that women need legislative protection, even against their husbands, is fast fading in the light of modern legislation:" *Per Harrison, C.J., in Kerr v. Stripp*, 40 Q. B. 134.

Under our present political system, the legislative, executive, and judicial functions of the Government are carried on in the name of a woman: "Her Majesty, etc., enacts," or "commands," etc.: yet women, because of their sex, are said by the learned judges and sages of the law to be "disqualified by the common law," or "by the uninterrupted usage of centuries" from having any voice or representation in elections affecting either legislation or government.

CHELLOW DENE.

WIND of the North!—blanching the fields of green—
What of the shadowed hour of Chellow Dene?

A lover has whispered a last good-night,
By the verge of Chellow's wave;
But the green orb is nigh, and the sad winds sigh
O'er a lover's nameless grave:
And a murderer rides at a furious pace,
For well; oh! full well, knows he
That the son of his sire, in a bloody attire
Is sleeping all peacefully.

Wind of the South!—sighing at languorous e'en—
What of a heart that once knew Chellow Dene?

A Red-cross nurse where the vine-clad walls
Slope down to a Southern sea;
One nurtured in ease, who has drained to the lees
Of the chalice of Misery.
Oh! her pure, sweet face, in the sunset glow,
Is wreathed in a golden gleam,
And her deft hands' caress, soothes the weariness
Of a dying soldier's dream.

Wind of the West!—pulsing each prairie scene—
What of the serpent's trail from Chellow Dene?

Bound hand and foot by the Vigilants
In the land of the setting sun,
There is one swings on high, and his lustreless eye
Is the thread of a life that is spun:
To the horse-thief, the gambler, and fratricide,
Short shrift and a hempen rope;
For death ever steals upon Judgment's heels,
On the far Pacific slope.

H. K. COCKIN.

Is it generally known that the distance between the rails on the narrow gauge of railways is the same as the width between the wheels of the old mail-coaches, viz., four feet eight and a half inches? A curious instance of the survival of custom.