

ELECTION LAW FOR LADIES.

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 Gatton was made by Mrs. Copley, *et omnes inhabitantes*: Heywood on Elections, 160. Before Lord Coke promulgated his opinion that "women having freehold" were not parties to elections, it was said to be 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. 1, 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. 1, 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., in *Ibid.* "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., in *Charlton v. Lings*, L. R. 4 C. P. 383. 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 having men at all, may be struck off the poll on a scrutiny of votes: 1 O'M. & H. 159. Widows and spinsters were burgesses of Lyme Regis in 1577: 2 Lud. 13. 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 *fefs* 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 auditu reticere non potest*:" Wright's Tenures, 28. "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. A woman may be a commissioner of sewers, which office is judicial: Callis, 250; and Clerk of the Crown in the 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. Women who were housekeepers, and paid church and poor rates, were entitled to vote for a sexton: 2 Stra. 1114. Women may vote for churchwardens: 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.* In municipal elections, spinsters and widows who are rated for property are entitled to vote, but they lose that right on their marriage: *Reg. v. Harvold*, 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.* 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. 599. "The policy of the law thought women unfit to judge of public things, and placed them on a footing with infants; by 7 & 8 Wm. III. c. 25, infants cannot vote—and women are perpetual infants:" *per* Strange, Sol. Gen., 7 Mod. 272. 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 to be "disqualified by the common law" from having any voice or representation in the process of legislation or government.