enactment of positive law restricting the elective franchise of England: "This was the first statute which required a qualification of landed property, or, to speak in a manner more strictly constitutional, which deprived persons in a very low and dependent situation of the exercise of the privilege of voting."[7]

"This statute first required the electors to have a qualification of freehold to a certain value, thereby, as some think, restoring the aristocratic spirit of the Constitution, which had been lately broken in upon; or, as others assert, making an inroad upon the liberties of the people, by depriving the lower classes of a privilege they had always enjoyed before."[8]

"The statute of 1429, during the contentions between Duke Humphrey of Gloucester and Cardinal Beaufort, presents a strong contrast to the legislation of the preceding reigns. The policy of former Parliaments had been to secure the whole body of the county population in the free and independent exercise of their electoral rights. Several reasons are assigned in the preamble for restricting the franchise. The true grievance appears to have been, not the mere number of the lower class of electors, but that their votes were of equal weight and value with those of gentle (*gentil*) condition."[9]

The practical working of this restricted franchise threw the electoral power into the hands of the great lords and land-owners, as appears by the letters written during this reign. One of them states, "It is thought right necessary for diverse causes that my lord have at this time in the Parliament *such persons as belong unto him, and be of his menial servants.*" Another says, "my lord took unto a yeoman of mine, a sedell (schedule) of my lord's intent, whom he would have Knights of the Shire."[10]

A few years later (1432), Parliament re-affirmed that the Choosers of the Knight of Parliament should be "people dwelling and resiant in the county whereof every man shall have freehold to the value of 40s. by the year, at least, above all charges, within the same county where any such chooser will meddle of any election." But, in 1704, the above condition as to "residence" was repealed, as having been found unnecessary by long usage, and having "become obsolete."

And there are also some historic records up to the 16th century that women, who since Lord Coke's time have been classed as persons under "legal incapacity," exercised the right of voting at parliamentary elections.[11] There is still extant an ancient "Resiant Roll" of the Borough of Lyme Regis, dated 29th September, 1577, which contains, among a number of male voters, the names of the following women, classed as *burgenses sive liberi tenentes*, who were entitled to vote at elections:—

"Elizabetha, *filia* Thomæ Hyatt: Crispina Bowden, *vidua*: Alicia Toller, *vidua*."[12]

But gradually, and especially under the influence of the writings of Sir Edward Coke, the judicial power appears to have legislated into the common law the argument of the Solicitor-General, Sir Robert Strange: "The policy of the law thought women unfit to judge of public things. By the law infants cannot vote, and women are *perpetual infants*."

Another counsel urged that decency and the policy of the law excluded women from popular elections. As illustrating the struggle in the judicial mind between legal precedent and

7. Treatise on the Law of Elections, by Sergeant Simeon, p. 59.

8. Digest of the Law respecting County Elections, by Sergeant Heywood, p. 23.

9. Ancient Parliamentary Elections, by Homersham Cox, p. 113.

10. Original Letters written during the reign of Henry VI., published 1787, p. 103.

11. "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." Per Bovill, C.J., in *Chorlton vs. Lings*, (1868), L.R. 4, C.P. 383

12. Luder's Election Cases, vol. 2, p. 13.