

counties, the common law immediately conferred the right of electing the representatives upon the community at large, to be exercised by all free and lawful men."⁵ And in the published volumes of the late Keeper of the Public Records of England, containing copies of the earliest Parliamentary Writs, and of the returns usually made by Sheriffs prior to the change in the franchise, the Sheriff certified that the election had been made "by the assent and will of the men of the whole county."⁶

But during the reign of Henry VI. and about the year 1429, the aristocratic element in Parliament succeeded in restricting this common law right and in imposing a property qualification on the electorate. The county elections had been a subject of intermittent agitation and discussion from the beginning of that century, and resulted in the triumph of the aristocracy. The result was the Act of 1429, which established the rule that an elector's political intelligence, and right to control the policy of the Government, should be gauged by the value of his acres rather than by his common law rights of manhood, or his mental or educational equipment. The lowest limit of his political intelligence was fixed on the basis of his possession of "free land, or tenement, of the yearly value of 40s. by the year at the least above all charges." The title of the Act is, "What sort of men shall be Choosers, and who shall be Knights of Parliament." And as evidence of the aristocratic influence controlling both Houses of Parliament at that time, and as an illustrative corollary to Horace's *Odi profanum vulgus et arceo*, the preamble of the Act may be cited. Read in the light of the democratic tendencies of our days, it recites, with a refreshing plainness of speech, a supercilious, and doubtless a real, aristocratic contempt for the so-called "lower classes," and

indicates the influence controlling the legislative policy of the realm, in phraseology which would be "cakes and ale" to an Anarchist in any similar modern legislative deliverance.

The Act 8. Henry VI., chapter 7, reads: "Whereas the elections of Knights of the Shires to come to the Parliaments of our Lord the King, in many counties of the realm of England have now of late been made by *very great, outrageous, and excessive number of people*, dwelling within the same counties of the realm of England, of the which the most part were *people of small substance and of no value, whereof every one of them pretended a voice equivalent as to such elections with the most worthy Knights and Esquires* dwelling within the same counties, whereby manslaughter, riots, batteries and divisions among the gentlemen and people of the same counties *shall very likely arise and be*, unless convenient and due remedy be provided in that behalf. Our Lord the King, considering the premises, hath provided, ordained and established by authority of this present Parliament, that the Knights of the Shires to be chosen within the same realm of England, to come to the Parliaments of our Lord the King, hereafter to be holden, shall be chosen in every county of the realm of England, by people dwelling and resident in the same counties, whereof every one of them shall have free land or tenement to the value of 40s. by the year at the least above all charges." The Act further provided for a scrutiny of votes, by directing that the Sheriffs should examine the electors upon oath touching the value of their freeholds.

It may be here noted that this statute only regulated the electoral franchise for the shires or counties; and its non-applicability to towns and boroughs left their franchises as regulated by the common law or their local charters.

Writers on Parliamentary Election Law have commented upon this first

5. Hudson on the Elective Franchise, pp. 31, 33.

6. Palgrave's Parliamentary Writs, p. 319.