

An appeal to the citizens of Ohio : showing the unconstitutionality, injustice and impolicy of the medical law, and its inconsistency with the interest, spirit, and genius of the age / by William Hance.

Contributors

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183 Euston Road
London NW1 2BE UK
T +44 (0)20 7611 8722
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AN
APPEAL

TO THE
CITIZENS OF OHIO;

SHOWING THE UNCONSTITUTIONALITY, INJUSTICE,
AND IMPOLICY OF THE MEDICAL LAW,
AND ITS INCONSISTENCY WITH THE INTEREST,
SPIRIT, AND GENIUS OF THE AGE.

BY WILLIAM HANCE.

COLUMBUS:
PRINTED BY CHARLES SCOTT.

1830.

TO THE PUBLIC.



It is presumed that no apology will be required for the publication of the following pages. The Medical Profession has been acquiring popularity for ages; and the law to secure, exclusively, to them the practice of medicine, was intended as the means of giving security and permanence to this popularity.

The influence of the Profession over the health and happiness of mankind, and the important bearing of the law securing to the Faculty this influence, altogether forms a subject of so much consequence to the citizens of Ohio, and, indeed to the civilized world, as to require that it should be arraigned at the tribunal of public opinion, stripped of its gaudy attire, and fascinating, though deceptive appearances; there to stand or fall, be exalted or abased, according to its merits or demerits in the scale of usefulness. And the language and mode of reasoning, which has been made use of in this appeal, is such as was deemed absolutely necessary for the accomplishment of this object: how far the Author has succeeded, the public must judge.

APPEAL, &c.



WHEN the liberties of a free people are endangered, or are actually assailed, however insiduously they may be attacked, or small the present danger, it becomes not only the interest but the duty of every citizen, however small his sphere of action, to make every reasonable exertion to stay the impending danger.

It may, perhaps, be doubted by many at this time, that any thing dangerous to our freedom can exist amongst us. But even those who may be listening to the syren song, that no danger to our liberties can arise; that no scheme destructive to our freedom can be fostered within our own borders, may possibly live to see, in measure, verified, what is now only viewed in perspective. The idea that we live in an age too enlightened—too far advanced in the knowledge of self-government, for designing men to attempt the subversion of our independence, and, eventually, to succeed in doing it, is, I fear, chimerical—perfectly illusory.

What has been the fate of every free government which has preceded ours? What destroyed Greece, Carthage and Rome? Were not their destroyers fostered in their own bosoms? Did they not possess, in an eminent degree, the powers of reasoning and the lights of science? Yet their liberties were subverted, their governments overturned, and their citizens enslaved.

It may be objected, that we live in an age far more enlightened than they did. This I will admit. But the power of deception also, in some measure, keeps pace with the light of science. Our liberties will not be wrested from us at once, by any bold and daring attempt at usurpation. We are, as a nation, too much enlightened to lose our independence in this way. Should such an event ever take place, it will be brought about by the most insidious means, and most plausible pretenses.

As a consequence of the selfishness of man, deception seems to be one of the first and leading traits in the human character. It may be traced through all the various stages and gradations of life, from the youngest novitiate at school, up to the hoary headed sire; and from the candidate for *path-master*, up to those who are seek-

ing for the highest offices in the nation. It may be found with the most humble farmer or poorest mechanic, as well as with the proudest merchant or greatest statesman. The learned professions, not even excepting the clergy, are found often—too often travelling this dark and dreary road. For dark and gloomy must be the road wherein every movement, every exertion is directed to one focus—to blind—to deceive—to decoy the unsuspecting; so that avarice or ambition may satiate itself at the expense of others. And by whatever means our liberties may be curtailed, or our rights abridged, it will be done under some specious mask of deception.

The seeds are, in my opinion, already sown, which will, if not prevented by the good sense of the people, spring up and produce the fruits of destruction to our freedom and happiness; when the stern voice of justice will be superseded by the whining of sycophants; and the grave voice of reason be overwhelmed by the prating of tyrants.

The gloomy picture, which I have drawn, may prove to be “the baseless fabric of a vision:” I sincerely wish that it might; we are however already labouring under some of the incipient effects, of such a lamentable state of things. But the limits which I have assigned to this appeal, will not permit me to enter into a general detail of the causes and consequences arising from the legal incorporation of banks; turnpike companies; manufacturing companies; canal companies; rail-road companies; medical, masonic, and religious societies, &c. &c. which will, eventually, have a dangerous influence on our civil policy. It must, however, I think, be evident to every reflecting mind, that the interest of all these incorporated societies will lead them to act in concert; and who, now living, can foresee the dangerous consequences of such a powerful combination? The charters, under which those societies or companies act, are an infringement on our natural as well as constitutional rights; and the dangers to be apprehended from them, will increase with the age of the institutions which possess a capital, as those will be constantly coming under the controul of a less and less number of individuals; and those which do not possess a capital, will find it their interest to unite their efforts with those which do, in promoting their own aggrandizement.

The principal object, however, of this appeal is to call the attention of the citizens of Ohio, to the law regulating the practice of physic and surgery; more familiarly known under the title of “the medical law.” This law is among the number before hinted at; which at the same time gives to one class of community an exclusive privilege, and wrests from others their natural and constitutional rights. And I hope I shall be excused in asking of the reader an attentive consideration of the subject; and I do not ask it wholly

because the interest of a few individuals or of a favorite institution may be involved; but partly because of the great danger arising from any disregard shown by the representatives of the people to individual rights, by overstepping the bounds of the constitution.

The first section of the eighth article of the constitution of Ohio says, that "All men have certain natural, inherent, and unalienable rights, amongst which are," "acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety." What more could we expect, or what more could we ask, than is here secured to us by the charter of our liberties? It was for these "rights" that our fathers fought and bled, and died; and for which the white slaves of Europe have sighed and groaned, and groaned in vain! And if these rights, nearer and dearer to our fathers than their lives, are ever wrested from us, it will not be, as I have before observed, by any bold and daring act of violence and oppression; but it will, most probably, be brought about by the legislative authorities overstepping the constitutional barriers, in bestowing upon companies or individuals, immunities, or investing them with powers, which are not made reciprocal with the body of the people.

The medical law of Ohio, is a fair sample of this spirit, already pervading, to a considerable extent, the minds of our representatives. This law, however, comes forward under a most specious garb; nothing less than *guarding the community* against the *imposition* of quacks. It is under some such covering as this, that every attempt will be made, that ever shall be made, by law, to infringe upon the constitutional rights of the people. The medical law of Ohio, presupposes the people to be incapable of judging for themselves who they shall employ to administer medicine to them, in sickness. What would be thought of a law prohibiting all persons from preaching the gospel, but such as were licensed by Kenyon College, or the Presbytery of Ohio, or any other one denomination whatever? Would it not be looked upon with abhorrence? Most certainly it would; and that very justly too. But every reader of ecclesiastical history knows that laws, similar to this, have existed, and have also been most rigorously enforced, in different ages and nations of the world. Those days, however, of religious ignorance and intolerance have, measurably passed away; and we are enabled, by the light of truth, to see the impropriety and unreasonableness of attempting to impose shackles upon the mind of man.

Man is naturally inclined to independence in thought as well as in action; and where the necessary evidence is afforded to the mind, of the truth of any proposition, it is a rare thing that law or popular opinion can long bind him to erroneous doctrines. Thus, when the reformers began to preach a more rational faith, the dor-

mant energies of the Church of Rome were roused into excessive action; and to prevent, as they said, the promulgation of heretical principles, the most unjust laws were enacted; the most cruel tortures resorted to, and the most inhuman deaths inflicted. But the spirit of independence and inquiry was not, in this way, to be crushed; the very means adopted to destroy it, proved a most fruitful cause of its extension; and at this day, and in this fair land, we look back upon those days of mental depravity, when it was a crime for a man to think his own thoughts, or to pray for his own soul, with the most profound disgust, contempt and abhorrence!

Nevertheless, those who now have their eyes open, and understand "the signs of the times," can discover the same disposition in the Medical Faculty, which impelled the popish priests to call in the secular power to support their falling dignity; and, in later times, as the Protestants successively came into power, induced them to make laws for the destruction of each other. The two cases are very similar in several important particulars. It is, I believe, very generally true, that the better rarely persecutes the worse.—Hence, the primitive christians never persecuted the Jews; and modern christians, or Protestants, have never persecuted the Mahomedans, or Pagans; and Protestants have never persecuted the Catholics with that rigor that the Catholics have persecuted the Protestants. In all cases of deviation from the general rule which I have laid down, that the better rarely persecutes the worse, it must be acknowledged by all, that it arises from gross ignorance and stupidity: and where the worse persecutes the better, bringing into their aid the secular power, or law, it is most certainly because they have no better weapons; the power of *reason* and the force of *facts* being against them.

Thus, the Medical Faculty of New England, when Dr. THOMSON'S new mode of practice began to attract public attention, found they could not hope successfully to oppose it by reasoning nor facts, sought the passage of an unconstitutional law, to secure the practice of medicine exclusively to themselves, and drive this "NOTED EMPIRICK" from practice; but the good sense of the people of Massachusetts at least, has prevented the accomplishment of their design. The faculty however in the other states soon took the alarm, and in some of them they have succeeded, in procuring the passage of laws which they supposed were calculated to answer their purpose.

Thus as Dr. THOMSON relates, all laws in the United States, restricting the practice of medicine have had their origin.

"I was in practice, says he, on my new system, from the year 1806 to 1809, both in Massachusetts and New Hampshire. The extraordinary success which attended my practice, excited the

jealousy of, and very much alarmed, the doctors, who sought my destruction. My life was threatened by a certain Dr. *French*, of Almsbury, Massachusetts, in such a manner that I felt myself under the necessity of resorting to the law for protection. My complaint against him was fully sustained, and he was laid under bonds to keep the peace, and discharged. He, however, retained his malice against me, and, in the fall of 1809, procured an indictment against me for willful murder, committed on the body of Ezra Lovett, one year before.

"During Dr. French's absence from home, procuring my indictment, I came into his neighbourhood, which he heard of on his return home, and fearing that I might slip away before the Sheriff could take me, he went before a Justice and made oath that he had probable ground to suspect, and did suspect, that I, with malice aforethought, murdered sundry persons in the course of the year past, whose names were to him unknown; whereupon a warrant was issued to apprehend and detain me until he could go to Salem, with information to the Sheriff, in order that he might come and take me.

"Whilst Dr. French was gone for the Sheriff, the Constable took me home to his own house, and put me into a back room; when he and all the family left the house, for some time. When they returned, some of them asked me why I did not make my escape, which I might very easily have done, through a back window; but I told them that I stood in no fear of the consequence, being guilty of nothing for which I ought to be punished; that I was taken up as a malefactor, and was determined to be convicted as such, or honorably acquitted by the laws of my country. On the next day after my arrest, just before night, Dr. French arrived with the Sheriff, into whose custody I was delivered, by the Constable; and, after Dr. French had vented his spleen upon me by the most savage abuse that language could express, I was, by the direction and assistance of Dr. French, bound with hand-cuffs, and conveyed to Newburyport jail. Here I was confined, without fire, from the 10th day of November, until about the 10th of December, being thirty days, in a most filthy and loathsome den; the filth running from the upper rooms into my cell, which was so extremely offensive that I was almost stifled with the smell.

"As no regular court would occur, at which I could be tried, until the next fall, I petitioned for, and obtained, a special court to try my case, in Salem. I was accordingly taken from Newburyport to Salem, in irons, and, on the 20th December, 1809, was arraigned at the bar of the Supreme Court, of Massachusetts, Judge Parsons presiding, and Sewall and Parker, assistant judges. The trial commenced, in usual form; and after hearing the evi-

dence in behalf of the state, Judge Parsons appeared to be much displeased, and observed to the State's Attorney that he was surprised to find a bill for murder, founded upon such slight evidence as had been adduced. He then arose and read two passages of law; one from Lord Hale, declaring that if any man administered medicine, with a good intention, and if, contrary to his expectations, it killed the patients, it was not murder. If physicians must risk the lives of their patient, who would practice? The other passage was, that where there is no malice, there can be no crime. Judge Parsons further addressed the jury, and said, that I had transgressed no law, neither statute nor common; and appeared much disappointed that I was out of his power. He further stated that there was *no law* against the using of botanic remedies, neither in the United States, nor in the common law of England; therefore, to stop this quackery, the Legislature must pass a law to prevent them from *collecting their debts; and if this did not answer the desired purpose, a law might be passed subjecting them to fine and imprisonment.*"

From the foregoing statement, given to me, in writing, by Dr. THOMSON himself, the reader may form a faint idea of the treatment which this modern *Hippocrates* has received from a people upon whom he had been the instrument of conferring the greatest temporal blessing. I say a faint idea, because all that is here related is scarcely giving the outlines of only a single incident of his life. This modern improver of the healing art, has received worse treatment at the hands of his fellow men, than could have been expected for the highway robber, the murderer, or traitor to his country; "and this too, from a free and enlightened people; the nature of whose institutions, and the spirit of whose laws, offer encouragement to the enterprising, and protection to the unfortunate.— Nothing but his innocency, and the consciousness of being engaged in a good cause, could have supported him in his cruel sufferings, and enabled him to persevere until he has measurably triumphed over his enemies, and placed his system of medical practice on such a respectable foundation, as to bid defiance to them, and deserve the lasting gratitude of the human family." I have made a digression; I will now return to my subject:

Dr. THOMSON has made *Judge Parsons* to say, that there was no law against using botanical remedies; and, in order to stop quackery, the legislature must make laws to deprive a part of the community of their natural rights. These remarks of Judge Parsons, when addressing the jury, were the original cause, says Dr. THOMSON, of the general exertions of the Medical Faculty, throughout the United States, to procure the passage of laws which would "cut me off from a living, and the world from the benefit of my discoveries."

I know of no authority contradicting the foregoing statements of Dr. THOMSON, respecting the origin of *legal medicine*; therefore, it must be received as correct testimony until it is made to appear otherwise. There is no evidence neither to show that any but the Medical Faculty have busied themselves in procuring those laws: They may, therefore, consider themselves challenged to bring forward the evidence, if any exist, to prove themselves clear of the charge of being the original solicitors of *all* the laws that ever were passed, giving them the exclusive privilege of practicing medicine.

Is it not surprising that the Medical Faculty should feel themselves under the necessity of calling upon the legislature, to aid them against those whose practice they affect to think so inconsistent? If every thing in medicine, coming under the common cant of quackery with the gentlemen of the faculty, were of that character which they fain would give it, they would in this enlightened age, need no law to force their neighbours to "put into their mouths." In this respect they are like the false prophets who "taught for hire and divined for money;" "those who put not into their mouths, they even prepare war against." Why do the faculty not show the inconsistency of the *theory* and *practice* of Dr. THOMSON, on philosophical principles and by fair logical reasoning, instead of *throwing themselves* upon the mercy of the legislature. But to do this they have never attempted; and if they should attempt it they never could succeed. Of this fact they are but too sensible themselves; and have, therefore, no alternative but to depend on the cold charities of a blind, infatuated world. For there is but little in their theory of medicine or disease, and still less in their practice, to recommend them to mankind.

When those who prescribe *legal medicine* tell us that certain diseases, "once produced will go on, although their cause be entirely removed,"—therefore, "there can be no certainty of their duration;" and when, to remove disease, they administer such articles or remedies as *they say*, are *destructive to life*; and when *they* make use of the same means to restore health that are used to kill well beasts, (*bleeding*) we certainly have the best reason in the world to conclude that there is little in their *theory* to recommend them to employment. And when we see the worst of consequences ensue on administering those poisonous remedies, and find medical writers successively accusing their predecessors, or cotemporaries, of destroying their patients, we may well conclude that there is nothing in their *practice* which entitles them to the respect of mankind. Hence the necessity, when a mode of practice more rational was introduced, in which the remedies consisted of vegetables only, and were both innocent and efficacious,

for the prescribers of mineral poisons to seek the aid of the law to support themselves against the power of reason, and the force of demonstration.

Dr. THOMSON has been the humble instrument of introducing into the world, a system of medical practice which is "plain, intelligible, and systematic; showing medicine, as it *ought always to have been shown, divested of all mystery; needing for its successful application to practice, no extraordinary powers—no legerdemain—nothing but common sense, with common study and observation.*"—This being the character of Dr. THOMSON's system of medicine, we need not much wonder that the Medical Faculty have taken the *strongest grounds in their power*, to hold themselves up in their destructive, and at the same time, *mysterious* career of dealing out poison, and calling it *medicine*. When I say the strongest ground, I mean the law, which they are obliged to resort to, because reason, philosophy, and facts are against them; and they could not hope successfully to oppose the *Thomsonian*, nor any other purely botanical practice, but by the aid of the law; and by covering themselves with all the mystery that technical terms and the dead languages could afford; and thus closing every avenue by which the people could arrive at a knowledge of their art.

I am sensible that I may be accused of making use of harsh and perhaps opprobrious language, in speaking of the Medical Faculty; but the importance of the subject to the interest and happiness of mankind, will justify me in making use of such language as is necessary to set the subject upon which I am treating, in its true light. I am well aware of the high respectability which mankind generally attach to the Medical Profession; but this ought not—it cannot, screen it from that just exposure which its demerits require. But I may be permitted to remark, that I am not at war with the members of the Medical Faculty individually, but with the profession. They are, as individuals, generally entitled to my respect.

"Experience and facts," says Dr. WATERHOUSE, "will confirm the truth, that the world has suffered more from learned impositions and quackery upon all subjects, than from ignorance;" which is an obvious, undeniable truth. Can enlightened minds be imposed upon by the ignorant? Does the great body of the people impose upon the learned professions? or do the learned professions impose upon the people? When learning, respectability, and an honorable profession are all united, the power to deceive must be vastly increased.

But notwithstanding all the advantages which the Medical Faculty possess, they have felt themselves insecure, without a law to confirm to themselves, exclusively, the practice of medicine. This law makes it a penal offence for any person, not licensed by a

Medical Society, to *receive* a compensation, for relieving his afflicted fellow creatures. The same law further provides, that no person, other than licensed practitioners, shall be allowed the privilege of the law in collecting such debts as may have accrued to him in consequence of attending and administering to the sick.

This law, I consider, is an infringement of our natural rights; and a direct violation of the Constitution. It makes physicians a privileged order of men: the Constitution is a compact entered into for the security of the natural rights of all the parties concerned; amongst which may be enumerated, that all men are born free and equal; no one man, nor set of men, having privileges allowed them by law, which are denied to others. I well know that the Medical Faculty object to this proposition, and say, that the whole community is at liberty to acquire the qualifications requisite to obtain a license to practice medicine. I will readily admit, under this view of the subject, that the medical law acts equally upon all. But in deciding upon any subject whatever, we are not to take up a single abstract proposition, as a criterion whereby to form our judgment; we must take up the whole subject in connection, and after comparing in detail, all its parts with its general principles or great whole, we may then be better qualified to decide with propriety.

The medical law acts equally upon *all who do not believe themselves qualified to judge* as to who they shall employ as a physician; but on no others. This class of persons are perfectly welcome to this *high distinction*; but there is another class, respectable for numbers, for wealth, and for talents, who prefer—vastly prefer, choosing a physician for themselves. The former class, who are distrustful of their own judgment in a matter of so much importance, do not know perhaps, that those whom they have selected to judge for them, are oftentimes actuated by unwarrantable motives; and actually have, under those impressions, licensed individuals, to administer the most *fatal poisons to restore the sick to health*, who scarcely understood the nature or power of the remedies they used, or the disease they wished to cure.

Could the Medical Institution but be seen by all, in its naked deformity, who is there that would not blush to think, that in this land, boasting of the superior lights of science, an aristocracy of such dangerous consequence, should not only exist, but be also patronized by the laws of his country. I am aware that many, whose good opinions of the Medical Faculty are similar to what mine once were, will very likely be disgusted at the high grounds which I have taken with regard to the physicians as a body: but these grounds, I believe are tenable. They are tenable, not only upon the general principle that incorporated societies are danger-

ous; but also upon the principle, that important powers delegated to any man or set of men, without the means of calling them to account for the improper or unjust use of that power, are dangerous.

The Medical Faculty is a body corporate, with the power to authorize whomsoever they will—foolish or wise, vain or sedate, after having gone through a certain routine of reading or hearing of lectures, &c. to administer such articles for medicine to restore the sick to health, as are known to be, under any circumstances in an over dose, the most destructive to life; and under other circumstances destructive in any dose. And thousands, no doubt, have fallen victims to those potent remedies, administered by imprudent and inexperienced hands, licensed by the Medical Societies; and the people have no means directly of calling these societies to account for so reprehensible a use of their power.

It is perfectly reasonable, that those whose profession it is to administer those deadly, poisonous drugs, should be qualified to use them with discretion; but it is the height of injustice to make them the sole and exclusive guardians of our health, when so many of us not only have no faith in their remedies, but wish to employ those who make use of innocent botanical remedies—remedies innocent on nature or life, but efficacious in removing disease. If one-third, or one-fourth, or even a much smaller proportion of the community disbelieve in the propriety of administering those poisonous medicines to remove disease, and have no kind of faith in such an unnatural mode of practice, but believe in a mode directly the reverse of this, in which harmless medicines alone are made use of; and in the practice of which but little experience, and far less learning are necessary; I say, if one-fourth or one-eighth of the community hold such ideas as these, it would be the height of injustice to debar them of the privilege of employing whom they please.

It is a matter too well known to the public for me to repeat here, that a very large and respectable portion of the citizens of Ohio, have become acquainted with the mode of practice discovered by Dr. SAMUEL THOMSON, and are so well satisfied therewith, that few of them will call upon one of the Medical Faculty on any occasion whatever; and many of them would rather trust to nature and the use of such means as are within the knowledge and reach of every family, than to employ a physician of the old school in any case of sickness whatever. There are also many others who do not profess a belief in the *Thomsonian* remedies who, nevertheless, have no faith in the popular, poisonous mode of practice; and make use of nothing but botanical medicines. Both of these classes, however, if the medical law were rigidly enforced, would be deprived

of the opportunity of employing the only class of physicians in whom they have any confidence.

The friends of medical aristocracy, very probably may say, that the medical law deprives no person from employing whom he wishes: I very well know that it does not in positive or direct terms; but I also know that it does this as effectually, and perhaps, more so, in its operation, indirectly, as if it declared in positive language, that any person, other than licensed practitioners, administering medicine to the sick, should be liable to a fine.

The medical law very clearly shows that its projectors were well acquainted with human nature: and it most forcibly shows, too, that they not only made use of their knowledge, in planning this law, to take the advantage of human nature in its ordinary *operations*; but also to take the advantage of that base, and degrading disposition which too often manifests itself in human nature, when prompted by motives of pecuniary interest, to take the advantage of an unjust law, and refuse to pay an honest debt.

Those who were instrumental in procuring the passage of our medical law it seems did not consider that practising or administering medicine without a license constituted the crime, or was, in any way, to be punished; although it is a self-evident fact, that it is from this act, alone that any danger can arise, or injury be done. It is receiving a compensation for medicine and for services rendered to the languishing sick, that constitutes the crime, and makes the *unlicensed* liable to a fine. The Medical Faculty, who it is understood solicited and procured the passage of the medical law, no doubt thought it too barefaced and glaring an absurdity—too gross an insult to common sense, to ask the legislature to make it a criminal offence to *administer* medicine to the suffering sick; although, as before observed, it is from this act alone, that all the danger arises from the impositions of quackery, and not from the receiving a reward.

Why, I would ask, was there not something like consistency observed by the framers of the medical law, by making that act, and that alone, from which all the danger and all the injury to the community must arise, punishable as a crime; instead of making an innocent act—an act which an individual has not only a natural but a constitutional right to do, a crime punishable by fine?

If these remarks should prove so severe as to be unpleasant to the subjects of them, they may have the consolation of knowing that their own conduct brought it upon them; and that the *remedy* and the honor of applying it, yet remains, in a great degree in themselves: but if they refuse, the people will ere long apply it for them. There is, I presume, too much good sense in the people of Ohio to remain long fettered by any law striking at the very

"*principles of liberty*" recognized by the Constitution; and, more especially when the operation of that law is most obviously contrary to reason and the ordinary notions of common justice.

The 8th article of the Constitution of Ohio, commences with the following preamble, viz: "That the *general, great and essential* principles of *liberty* and *free government* may be recognized, and forever unalterably established, we declare,

"Sec. 1. That all men are born *equally free and independent*, and have certain, *natural, inherent, and unalienable* rights; amongst which are *enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.*"

Here the Constitution declares, that all men are born equally free; and that enjoying life and liberty; acquiring and possessing property; and pursuing and obtaining happiness and safety, are natural, inherent, and unalienable rights: That is, that they are, in the first place, rights conferred upon us by our Creator, as rational creatures; and secondly, rights innate in, or inseparable from us; and thirdly, rights which are not transferable to another. Indeed, it must follow as a necessary consequence, that any right which we hold, as a natural result from the particular scale which we occupy in creation, and which is inseparable from us, cannot be transferred to, or vested in, any other individual.

That all men are born equally free; and that the enjoyment of life and liberty, and the pursuit of happiness and safety, are among the unalienable rights of man, we have the highest authority which the history of our country affords. We find these same sentiments glowing in the breasts of the illustrious signers of the Declaration of Independence; and from those champions for the rights of man, and from that immortal state paper, these same correct sentiments have descended down through succeeding generations, and have become interwoven, in a greater or lesser degree, with the government of every state in the Union; and, indeed, their influence has extended in some measure, to almost every civilized nation on the globe.

Is it possible then that the people of Ohio, in this enlightened age, and professing the immortalizing sentiments, first published officially to the world, in the Declaration of American Independence, and which is perpetuated in, and recognized, by their own Constitution—I say is it possible for the people of Ohio to submit calmly to a law, the operation of which completely contravenes those ennobling sentiments to which I have made allusion? These sentiments indeed are the only ones, connected with civil policy, which can adorn the human intellect, or give true dignity to the mind of man.

It is upon the certain knowledge we possess, of the equal rights of man, that our free and equal government is predicated; and it is also in accordance with this knowledge that, in all free governments, every individual—every profession, and every institution, must stand or fall according to its merits in the scale of usefulness. But in all governments there is a tendency in the few to acquire the power, and to exercise it to the disadvantage of the many. It is obvious to all capacities that the few cannot acquire any power over the many by the application or exercise of physical force; because, in such an event, the scale would most certainly preponderate against them. This ascendancy of power is, therefore, first acquired over the mind; and then measures may be safely taken to enslave the body. And this ascendancy is acquired either through the *ignorance* of the many, or the dissimulation of the few, or more commonly both conjoined: they both amount to one and the same thing—the concealment, from the many, of the designs of the few. And this is the true origin of all kinds of oppression in all governments, whether republican, aristocratical, or monarchical.

The Medical Faculty, being aware of the great defects and consequent uncertainty of their own mode of practice; and seeing the extraordinary cures performed, not only by the “disciples of Thomson,” but also by many other respectable “root doctors, in cases where their own skill had all been exhausted in vain, became alarmed for their own safety, and set about making the people and their representatives believe that a great deal of learning, skill, and experience, were necessary to make an accomplished physician; and that they themselves, and no others, were the only class entitled to the privilege of practising the healing art. With the exercise of much sophistical reasoning and, apparently, plausible deductions from false premises, they were enabled to succeed in procuring a law to secure the practice of medicine exclusively to themselves and to such others only as they might deem expedient. But to return to the Constitution;

The Constitution recognizes, and guarantees to us, the right of “acquiring and possessing property,” “and pursuing and obtaining happiness and safety.” But in what way is this property to be acquired, and this happiness and safety to be pursued and obtained? Doubtless in a way consistent with the soundest principles of morality, and also with the natural, inherent, and unalienable rights of every individual of the human family. Reason, justice, and common sense, will doubtless point this out to be the only correct way of acquiring property, and pursuing and obtaining happiness, and safety, although the Constitution might be utterly silent on the subject. But the Constitution does say in this same 8th article,

25th section, that "To guard against the transgression of the high powers which we have delegated, we declare, that *all powers* not hereby delegated remain with the people." Where then, I will ask, is delegated the power to prevent any individual who, it is believed by himself and others, possesses the "gift of healing" from the exercise of that gift for acquiring property? There is certainly nothing immoral, nor inconsistent with individual rights, in his administering medicine to those who call upon him for that purpose. And, therefore, if he is called upon and employed, the Constitution "delegates" no power to the legislature to deprive him of a just and reasonable compensation for his services. And on the other hand, where is delegated the power to prevent us, when disease is preying upon, and threatening us with dissolution, to throw any obstacle in the way of our employing whom we wish.

It is acknowledged on all hands, that the imagination has a powerful influence in healing the sick; there is no doubt, at any rate, that a great deal depends upon the state of the mind. And the legislature has no constitutional, nor any other right, to deprive us of the privilege of employing, in case of sickness, physicians in whose knowledge and skill we have the greatest confidence. And it is no less our privilege than it would be our duty at such a time, to call upon those in whose care we should feel most security. It is a duty we owe, not only to ourselves, but to our families, our friends, and the whole community; and we should be reprehensible in the sight of the Author of our existence for the neglect of it. But the exercise of this privilege, and of this duty, the medical law virtually deprives us of, unless our choice should happen to fall upon a licensed practitioner, whom, it is well known, many thousands in Ohio would not employ.

Is it not very obvious, under every view of the subject, that the medical law of Ohio is in direct contravention of the Constitution? Does it not obviously interfere with our "pursuing and obtaining happiness and safety," even in cases which no way interfere with morality nor the individual rights of others? And is not this interference with our pursuit of happiness and safety, interfering with a matter of the utmost importance to the whole human family?

I will also go farther, and ask where is delegated the power to lay a fine of ten dollars, or any other sum, on any individual for receiving a compensation for services rendered to the sick, as a physician? Can this act possibly be considered a crime? What is it constitutes a crime? Is it not the commission of some immoral act, or some act interfering with some of those "natural, inherent, and unalienable rights;" such as "the acquiring, possessing, and protecting property, and pursuing, and obtaining happiness and safety?"

Our Constitution says, 8th article, 14th section, that "All *penalties* shall be *proportioned* to the *nature* of the *offence*." "The true design of all *punishments* being to *reform*, not to exterminate mankind." Yet in the medical law we have the strange anomaly of a penalty without any thing constituting an offence, more than the mere letter of the law; and we have a severe *punishment*, designed to *reform*, without any thing constituting a *crime*. If a man commits no immoral act; nor no act which interferes with the natural and constitutional rights of individuals of the community, how can punishment reform him?—he has nothing to reform from.

The plain truth is, physicians have privileges granted them by law, of which the rest of the community are deprived; and those who have not this privilege but trespass upon it must be punished. Is this not proof positive, that physicians are a *privileged order*? and how does this accord with the constitutional declaration?—"That *all men are born equally free and independent*."

These views of the subject I think place this matter in such a light that the community must certainly see its inconsistency; and the reasoning adduced, I think, cannot be evaded by the most subtle arguments, nor the most profound sophistry, and ought, therefore, to be conclusive evidence of the impropriety and unconstitutionality of the medical law.

"To foster weak or infant institutions whose objects are good, by legislative provisions consistent with public justice and individual rights, I think is highly commendable: But what are we to think of the Medical Profession for coming forward in the strength of manhood, aided by the wisdom and experience of age, the lights of science, and advantages of popularity asking for exclusive privileges, and legal protection against those whom they effect so much to despise for their ignorance and inconsistency? The natural inference is, that medical science holds out appearances much more specious than solid, or there could have been no necessity for a law to protect it against the intrusion of *quacks*. Such a law as this, can, therefore, be looked upon in no other light than as a prop "showing the weakness of the edifice" which it is intended to support.—*Address to the Botanic Society.*

In what light can we view any professional body which needs the law to support it? If a recommendation, or diploma, from a Medical Society is not sufficient to enable its possessor to obtain employment, and to compete, at least upon equal and honorable terms, with those who have not this mark of distinction, what value can be placed upon the Medical Institution? If, after acquiring all the qualifications which the faculty boast of possessing, and with all the honor and popularity attached to the profession, they are still unable, without the aid of the legislature, to support their

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high pretensions to an exclusive knowledge and the exclusive practice of the healing art, by what criterion can we estimate their usefulness?

"If all the glitter, the show, and the splendour, fancifully attached to medical science, affords no efficient passport to employment and distinction—if it affords no efficient protection to a solitary professor, nor to the whole Medical Faculty, united—if they are unable, with all their boasted advantages over the "empiric," the dealer in "nostrums, &c. &c. to obtain employment, without the aid of a special law to secure to themselves an exclusive patronage, how little must all their learning—all their laborious, midnight studies, and pouring over volume after volume of ponderous books, avail them in the eyes of the world?"—*Address to the Botanic Society.*

If the Medical Faculty could afford that relief which the painful exigencies of the sick imperiously require, they would certainly need no law to secure the practice exclusively to themselves, nor to "protect the community from the imposition of empirics." If the gentlemen of the faculty were adepts in their art, mankind could be in no danger of imposition from ignorant pretenders to the art of healing; because this class of physicians could never, in the vicinity of any of the faculty, find employment. But in consequence of the "regular practitioners" of medicine, so often failing to demonstrate what they claim to possess, a superior knowledge of the healing art—the sick are induced to call upon any other assistance that affords a prospect of relief; and the good effects, often times resulting from the employment of empirics,* induces others to give the preference to this class of physicians, from whom, it is acknowledged, the best articles of the *Materia Medica* have been derived. If it be a fact, (and it is so acknowledged by eminent authors,) that the most active medicines have been derived from this source, how inconsistent the policy of making laws to deprive the world of this natural and legitimate channel of information? All medical men agree that the healing art, or knowledge of medicine, is in a very imperfect state; why then should any obstruction be thrown in the way of its consummation? In what situation would this science have been, if such legal restrictions had always obtained and prevailed?

What is the present situation of the Medical Profession in France? According to a recent publication it is deplorable indeed. The following quotation is from the publication alluded to: "By the direction of a government, possessing nothing of free-

*"Literally, one who makes experiments. Hence its appropriate signification is, a physician who enters on practice without a regular professional education, and relies on the success of his own experience."—*Encyclopædia [Webster's Dictionary.]*

dom but the name, an interference has been made with the practice of medicine, under pretense of regulating and *improving* it; but which, in reality, has been made a mere excuse for undermining the civil rights of a large class of the people, and annihilating the liberties of their neighbours."—*American Lancet*. What is the natural consequence of such interference? Certainly to destroy emulation, the grand stimulus to that diligence which is necessary in acquiring only a competent knowledge of any profession whatever. Such interference in all countries, must invariably have a tendency to degrade the profession, and retard the advancement of "true medical science."

The medical law of Ohio, is the result of pretensions similar to those of the French Government. It recognizes the presumption, that well regulated Medical Societies have been found to contribute to the diffusion of true medical science, and a correct knowledge of the healing art." "But I do not consider it by any means necessary in order to constitute "well regulated Medical Societies," that the members of said societies should have the exclusive privilege of exercising their skill to relieve the suffering sick. The object of professional associations is, or ought to be, the improvement of the individuals thus associated, in their particular profession; and not the oppression of the rest of the community. The advantages which the belonging to a well regulated society should confer upon its members, would, in the eyes of an enlightened community, be quite sufficient to ensure employment, without resorting to the disagreeable, I will not say disreputable, expedient of procuring a law to force people to employ them. No society in justice, has a right to exercise any privilege or power over the community, which the community has not the power or privilege of exercising over it. We live in an age when, and under a government where, rights and privileges are believed to be reciprocal."

"I ask nothing more from the Medical Faculty than to meet us on even ground, and then let public opinion, which seldom errs, decide." "We have a right to ask, and to expect, from liberal and enlightened legislators, to be placed upon equal ground; and the faculty, relying upon their superior attainments, ought to be—they certainly will be, willing to yield it to us."—*Address to the Botanic Society*.

I will close this appeal by making an extract from a letter published in the "*American Lancet*," from Dr. Samuel L. Mitchell, and two other gentlemen, of New York city, to the Editors of the *Lancet*.

After remarking that medical journals are ephermal; that they must "disappear and be mingled with the dust of all periodicals;" they say, "But, gentlemen, it will not be so with your *LANCET*, pro-

vided it cuts keen and pricks deep; especially, if you *analyze* and *review* the scientific, systematic, *botanic*, and improved practice of our own days, and compare it with the old practice. Nothing is more common now-a days than to hear of the sudden death of a man, young and strong, who had just been cured of a most violent chronic rheumatism, and the like! Above all, gentlemen, permit us to recommend to you to hold up the necessity of freedom in medical instruction, unshackled from the forms of privileged professors; because emulation is then never fostered and promoted; science is best obtained and diffused in the ranks of equality, in which the nation herself impels every one to become the first. Oppose, also, the existence of all privileged medical bodies, organized as grand juries over the profession, whether for science or for morals. Such tyranny, in a land of liberty, cannot be countenanced. We would as readily be under the authority of a capuchin convent, or the intrigues of the inquisition; for even there we could relieve ourselves by *hypocrisy* and *duplicity*; means, which we, as physicians, absolutely reprove. Expose, also, by well authenticated facts, the arts of secret associations for *medical sectarianism*, by *selected medical caucuses*, with every departure from medical courtesy, policy, and ethics."

FINIS.

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