

An inaugural address delivered before the Medical Society of the State of New York : at the Capitol in the city of Albany, on the 8th day of February, 1826 / by James R. Manley.

Contributors

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Manley (Jes. R.)

AN

INAUGURAL ADDRESS

DELIVERED BEFORE

THE MEDICAL SOCIETY

OF THE

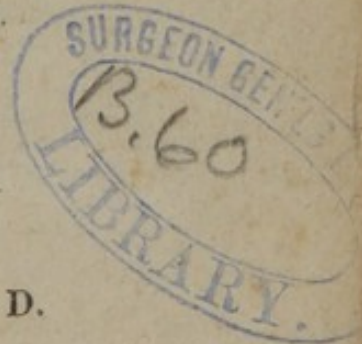
STATE OF NEW-YORK,

AT

THE CAPITOL IN THE CITY OF ALBANY,

ON THE

8TH DAY OF FEBRUARY, 1826.



By JAMES R. MANLEY, M. D.

PRESIDENT OF THE SOCIETY.

NEW-YORK:

PRINTED BY J. SEYMOUR, JOHN-STREET.

1826.

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INAUGURAL ADDRESS.

GENTLEMEN OF THE MEDICAL SOCIETY,

BELIEVING that I am more indebted to your partiality than to my own desert for this opportunity of addressing you, I should feel no small measure of embarrassment, were I forbidden to presume upon the kindness which you have already manifested. Called to occupy a station which has been occasionally filled by the most distinguished medical talent in this country, it is the monition both of interest and of duty to accept it with diffidence, and to use its influence with discretion.

The medical community of this State, since the incorporation of this Society, whose business it is to supervise and regulate for the good of the whole the police of the medical profession, has assumed a more fixed scientific character than could have been reasonably anticipated for many years, without its agency. Without appearing to control, and without imposing any other restraints upon its members than such as commend themselves to the understanding and the conscience of every enlightened individual, it has silently but successfully operated such a change in medical education as cannot fail, if properly improved, to make the character of the physician honourable and respected. But much yet remains to be done. The progress of improvement must of necessity be slow, where philosophy has, at every step, to contend with

ignorance and prejudice ; and where, as in the medical profession, the pecuniary interests of a large majority of its members are best consulted by perpetuating them. No man can know precisely the measure of his own ability ; his estimate may be, and no doubt sometimes is, correct ; but when it is so, it is purely accidental : hence it is, that, for the most part, men of education are divided into two great classes ; those who are distrustful of their own powers, and those whom vanity prompts to overrate them. Literary and scientific associations, by bringing various degrees of talent into collision, enable the possessors to correct that false estimate which their timidity or their confidence had formed, by showing them in relation ; and the emulation of the young aspirant after distinction is so disciplined by the comparisons thus frequently instituted between himself and others, that assurance on the one hand, and an overweening modesty on the other, are made to give place to a well-tempered confidence, which is neither inefficient through fear nor offensive by its arrogance ; and if the benefits which this Society has conferred were restricted to those arising out of this single circumstance, it could not fail to recommend itself to general patronage, seeing that the evidence is before the public. But it has higher, and I may almost say holier, objects ;—objects in which all classes of the community, whether they realize it or not, have a deep and permanent interest : to it the law gives a controlling influence over the various medical associations throughout this State, and from it the people have a right to require the exercise of the most jealous vigilance in all matters relating to the education of their physicians ; for to them, under Providence, are committed their dearest interests ; and as in the whole catalogue of social duties there is none which involves more weighty obligations, so mere indifference to this object magnifies itself into an offence against society, which admits no apology, because the evils which it entails admit no reparation. I hope therefore to be excused, if, instead of reading a paper on a particular disease or individual remedy, I occupy your time by some remarks on medical education and

character, in so far as they are susceptible of improvement by legal provision.

The profession which we have chosen is one of awful responsibility : it puts in requisition, and gives continued employment to all the powers of the understanding, and all the kindly affections of the heart. The physician is not only obliged to be well informed, but his knowledge must at all times, be at command—not only to act with decision, when occasion requires, but to do ungracious acts, and such as will jeopardise his reputation if success should not attend the results ; to be well furnished for his profession is not only his duty, but his deficiency is his sin ; his ignorance is his crime : he is not only obliged to administer relief, but the relief must be extended in the best and speediest manner, and with the least possible suffering ; and if any thing can render the duty still more arduous, it is the conviction, that his feelings must be so disciplined by his judgment as in no case to be permitted to control it. It is his exclusive business to shield from the dangers and assuage the pains of disease ; to furnish the means which alone can give to life its enjoyment, or mitigate the sufferings which must inevitably terminate in death ; and to give additional force to all these responsibilities, there are no human sanctions to enforce the obligations.—He who made him, and conscience his only representative, can estimate his deficiencies or rebuke his neglect : how important then,—how vitally interesting to the public, is the subject of medical education ! and how essential is it, that its foundation should be laid in a deep and abiding sense of moral obligation !

The time was, when a moderate share of intellect, properly directed, was sufficient to insure to the possessor a large measure of reputation ; but it must be remembered, that such reputation was but the halo created by the mists of ignorance which its industry was endeavouring to dispel. In the early settlement of a large part of this State, and till within a few years, it was not to be expected that either leisure or opportunity would be afforded to medical men to improve their profession by reading or observation ; the pres-

sure of those ordinary avocations, so essential to their comfort in a new country, in a great degree deprived them of the privilege of study; and hence, with some few honourable exceptions, (among whom are some of the members of this Society) they were obliged to rest satisfied with the results of their own experience, and grow old in the tedious record of insulated facts, presumed to be extraordinary, because, from the limited range of their elementary information, they were difficult to be understood. But a new scene has opened upon us: the rapid progress of internal improvement, the spirit of commercial enterprise, the more general diffusion of wealth, and above all, the liberal patronage extended to almost every species of intellectual culture, have combined to dissipate the murky atmosphere which heretofore magnified every object seen through its deceptive medium. Character in medicine must now be measured by comparative standards, as in all other sciences; and precisely, in proportion to the facilities by which it may be rated, must the standard be elevated, in order to give to it the influence of example, or to excite our admiration. Genius and acquirement are now estimated according to their real amounts, and neither ignorance nor prejudice are permitted to distort their true proportions. A medical reputation, though in years past it might have been easily acquired, must now be maintained by severe application to study and industrious habits of observation; and those who fail in either, or who content themselves with their attainment, betray not only a neglect of the progressive improvements of the science, but a contempt for the intelligence of the public, which will not fail of its desert, whenever their claims to distinction are questioned.

It is necessary, therefore, that those who devote themselves to the practice of physic, should be fully educated, in order to warrant the expectation of acquiring character in their profession; and as an indirect stimulus to their exertions, they ought to be made acquainted with the difficulties which lie in their way, that they may not in disgust, when too late to retrace their steps, abandon the high road to honou-

ble preferment, and study to compensate themselves for their disappointment, by converting the privileges they possess into mere trade-stock to accumulate wealth. It is a truth, which if not immediately obvious, experience will soon teach, that the path to wealth, if not to eminence, is best found in a spirit of worldly accommodation, which consults the prejudices rather than the reason of the multitude; for, however ignorant that multitude may be, (and they are not scandalized by being charged with total incapacity to judge of medical character,) there is not an individual of them who will not accept a deference to his opinions, as a compliment to his intelligence. It is also true, that the profession of physic addresses itself to the heart, rather than to the understanding—to the feelings, rather than the judgment; and that this is the fruitful source of much of the difficulty with which the physician must contend, in his pursuit of medical distinction. Sympathy with suffering makes a firm friend; hence the intelligent discharge of the obligations of duty are merely acknowledged or forgotten altogether, while a tythe-part of the services, rendered with apparent and officious interest for the distressed, is received with a gratitude which memory will always cherish. So universal is the operation of these principles, that the uninformed, the impudent, and the cunning, who *per fas aut nefas* become legally authorized to practice our art, make their advantage of them, to conceal their ignorance or to mask their hypocrisy; and they so admirably answer either purpose, that they are successful for both. He who has a well-grounded confidence in his ability, who scorns the petty shifts to which imposture in any form will resort, and who depends solely on the conscientious discharge of duty well understood;—with too much integrity to cherish the despondency, and too much candour to inspire a confidence which he knows must be disappointed, is prompted to leave the practice in disgust, and rely on the labours of the closet and the hospital to form his character; while the mountebank attains both wealth and celebrity by the abandonment of every thing which can give to the profession its excellence.

If these remarks are just—if the obligations of the physi-

cian are so numerous, and the confidence of the public so liable to be misplaced—if the difficulties he must encounter be so great, and his incentives to exertion are so small—if the temptations to neglect the great end of his vocation be so strong, and the restraints which the law imposes are so weak—it becomes our duty, so far as it is in our power, to correct this deceptive estimate of character, and to cherish the talents which adorn, and the morals which alone can give true dignity to the profession; while, at the same time, we guard with unceasing vigilance every avenue by which unworthy persons may enter, and possess themselves of its privileges. We are constituted, by law, the guardians of the public interests, in so far as these interests can be affected by medical education; and to what extent such responsibility reaches, I almost fear to say: let conscience answer.

Perhaps there never was a time since the organization of this Society, when the calls of duty were more imperative than at the present: the rivalries of the numerous schools for medical instruction, distributed throughout the country, many of them offering very limited courses of instruction—the neglect on the part of most of these schools to require from the candidates any evidence of proficiency in those studies which should form the ground-work of a medical education—the facilities with which degrees in medicine are obtained—the inducements offered to young men to enter themselves as pupils, while they are deficient in the elements of general science, which alone will enable them to study to advantage when their periods of pupilage shall have expired, and especially that mistaken liberality of our statute, which, while it gives full effect to the evils above enumerated, is calculated to perpetuate them,—all threaten to degrade and deprave the medical character; and, unless this Society suggest some decisive measures to arrest this wholesale manufacture of physicians, by more particularly determining the qualifications which shall admit to license in this State, the consequences must be alike disastrous to the respectability of the profession, and the interests of the public; since the law, in its present form, not only is evaded with facility in its most

wholesome provisions, but accords to every person the right to practice, who possesses a Diploma, no matter from whence derived, provided it be filed on record in any of the counties of this State.

It would scarcely be expected, that the rivalships existing among the medical schools, could be enumerated among the causes calculated to impair the medical character ; but a little consideration will satisfy the most prejudiced, that they not only are, but that, so long as the emoluments of teaching depend on the number of pupils, they must continue to be of injurious tendency ; unless the restraints of law shall be made to countervail their influence. If medical schools were all furnished with commanding talent in the teachers—if they all offered complete courses of instruction—possessed all those facilities for their illustration which are essential to a full education—required such terms of pupilage as are necessary to its acquisition—and if their rivalries were disinterested, except so far as the dignity and usefulness of the profession were concerned, they would be so many sources of gratulation rather than of serious apprehension. But experience has spoken a different language, and as it cannot be misunderstood, we are left without apology if we disregard her lessons. The strife among some of our schools appears to have been, not which should educate the best qualified physicians, but which should graduate the greatest number ! And to so great extent has this ignoble emulation operated, that a college has been known to admit to degrees, at one commencement, the one-half of its whole amount of pupils ; whereas in all well conducted schools the proportion is never permitted to exceed one *fifth* or one *sixth* part of those matriculated. If it be asked, whether this abuse be not inseparable from the multiplication of medical schools ? I answer no ; with the number of schools it has no necessary connexion : it is only when they are empowered to grant licenses, and when they exercise the power, under a strong temptation to relax discipline, and degrade the measure of requisition, for interest's sake, that the public have serious cause to be alarmed. The evil, however, is within the reach of remedy, and may be correct-

ed, either by changing the mode of compensating professors, in our various schools, so that the profits of teaching shall not exclusively depend on the number of pupils graduated; or by a positive law, which shall separate the license from the degree, and thereby render it simply a professional distinction: the latter is the corrective, most easy, most effectual, and has become essential. As college honours, those degrees when unmerited, could do no harm, further than to degrade the authorities which issue them; but as licenses to practice physic, they are causes of incalculable mischief: deprived of the privileges which the liberality of our law now accords to them, they would of necessity be less numerous, but their value would increase as their numbers diminished; since none but those who aspired to character in their profession would become candidates for a distinction which was purely academic, and conferred no rights, except such as could not fail to render them ridiculous in case their attainments did not warrant the certificate.

I am anxious that these remarks should at least exempt me from the undeserved censure of those who have heretofore thought that college honours should of right take precedence of county or state licenses, and shall therefore, though at the risk of being tedious, offer some of the reasons which may very properly be urged in favour of divesting the diploma of the privileges which the laws of this State, at present, accord to it. I am aware that there are those who will think, I am treading on ground that is hallowed, because enclosed by patents and prescriptions; and that I am trespassing on rights presumed to belong exclusively to colleges: but, convinced that a measure of this kind will elevate the standard both of the degree and the license, I cannot be deterred by any considerations of a personal nature, from performing what, under existing circumstances, is an act of imperative duty.—

The degree of Doctor of Medicine is the highest honour known to our schools which is within reach of the student, however great may be his talents or application; it, therefore, claims to be considered as the best evidence of medical acquirement, and the surest passport to public confidence;

but when there is reasonable ground to fear, not only that they will cease to have these attributes, but that they actually serve, by the facilities with which they are clothed, to defeat the plain provisions of the statutes in relation to the right of license; then it becomes as much the duty of the Legislature, as the interest of the colleges to interpose their authority to correct the abuse.

Before the organization of this Society, and for a long time afterwards, the degrees of all medical colleges were simply considered as certificates of high attainment in the various branches of physic and surgery, and conveyed no right to practise those arts with a view to the emoluments of the profession. The graduate, notwithstanding this then flattering testimonial of his merit, was obliged to conform to the law of license to as full extent as if he never possessed it, although it might have been conferred by the most celebrated institution in Europe or America, or exercise the right merely by courtesy; and so indifferent were the first schools which were established in this country on this point, which is now viewed with so much jealousy, that no attempt was made to render the degree a license in law, till the year 1814, and then only in this State, and for the avowed purpose of building up and patronising an institution which had successfully rivalled and has since destroyed an older school established as a faculty in a college of arts.

I feel a confidence in recommending this measure, because I am persuaded that the regents of the university of this State, who alone grant the degrees on the presentation of the colleges, can with difficulty question its propriety, when the evidence on which it rests shall be fairly spread before them; and unless the personal interests of professors are permitted to stifle their higher obligations of duty to the public, they too will be constrained to acquiesce in its reasonableness. The beneficial effects of such a modification of the law, as would recognise this separation, would be immediately obvious from a view of the consequences which must of necessity follow. In the first place, it will restrict all colleges, not only those in this State, but, to a certain degree, those located in

other States who educate physicians who may settle in this, within their proper sphere, which legitimately extends no farther than to instruction:—it would destroy the inducements now presented to pupils, to resort to the schools to procure a license rather than an academic honour; and make it necessary that the candidates for these distinctions, should be fully furnished with the preliminary education which is essential to a good physician, and without which he cannot with facility comprehend even the technicalities of the science:—and as the great aim of every well-regulated school would then be, to acquire a reputation from the *quality* rather than from the *numbers* graduated, the diploma would become intrinsically valuable as the evidence of the student's proficiency. The license, stripped of those deceptive facilities which *keeping terms*, as it is called, presents, to tempt young men to shorten the period of their pupilage, contrary to the true intent and meaning of the act, would depend, as it should, more upon the actual duration of his studies than upon the evidence of attendance on lectures which may never have been heard; for it must be observed, that this evidence is neither more nor less than the professor's receipt for his fee, which is always required at the commencement of the course. The examinations, conducted by persons in no manner interested in the profits of teaching, and *only* solicitous that the profession should be honoured and the public served by the admission of the candidate to the privilege of practice, would be rigid, impartial, and satisfactory; and precisely in proportion as it was so, would be the promise of future usefulness. It would be idle to attempt to conceal what is already a matter of notoriety, and therefore I shall offer no apology for stating (and I do it without fear of successful contradiction) that the qualifications for a degree in some colleges of medicine are much less than those which the laws of this State require for license; on which account many are enabled to defeat the wholesome intention of those sections of our acts, prescribing the mode of education for the practice of physic, by possessing themselves of diplomas derived from schools *without* this State, and afterwards placing them on record in the counties where they

purpose to reside. This practice has grown into an abuse, which nothing but a repeal of that section of the act which gives to the diploma the rights of license, can effectually correct.

Apart from the pecuniary interest which public instructors may have in this question, which by the way ought never to be consulted when it comes in collision with public duty, there is but one objection which can be urged with any appearance of plausibility against its unconditional repeal, and I have accordingly anticipated it. It will be said, that to those who possess the degree, the right of practice will be accompanied by a mortifying condition, viz.—an additional examination. It is true, an additional examination will be required; but that it would degrade or disgrace any candidates, except such as would deserve such mortification, is an apprehension utterly groundless. Examinations have no terrors for those who are qualified; nothing so completely dissipates those fears, which their formalities are calculated to create, as the consciousness of preparation. Those alone, who are unqualified, need to dread the ordeal which tests their deserts; and perhaps, both the interests of the profession and the colleges themselves would be better served, if less pains were taken to dismiss those wholesome anxieties which stimulate the pupil to his exertion.

The separation of licenses from degrees appears to be the more necessary, since to the inordinate multiplication of them almost all the faults of early medical education are justly chargeable. The facilities with which they are acquired have already sensibly diminished their value as evidences of medical proficiency; and they must continue to have the effect, so long as gentlemen are graduated who are deficient in the rudiments of a good education. The fact, that as many if not more persons are admitted to these honours in one year, in the United States, than are admitted to the degree of Bachelor of Arts in all our colleges during the same period, speaks a language so emphatic, and in a tone of such serious admonition to all medical schools, that it is matter of astonishment that they have not, long since, taken decisive measures to

correct the impression which it is calculated to create ; for the inferences from it are so obvious, that no argument can illustrate or sophistry obscure them. It is believed, that at least one half of the youth educated in our colleges apply themselves, after graduation, to mercantile and miscellaneous pursuits, and that the remainder is destined to fill the ranks of the three professions. If we allow that each receives an equal proportion, which perhaps is not very wide of the truth, it will follow, that no more than one sixth part of the whole number of graduated physicians have the advantage of a liberal education : and when we take into account the number of persons licensed to practise physic under the laws of the several States, which is presumed to be equal to those who receive the medical diploma, we have the mortifying result, that only one person in twelve of the authorized practitioners is furnished in like manner. A full education, at best, but enables the possessor to add to his stock of information without incurring obligations to teachers, and to this end it is always directed, when professional pursuits are the subjects of study ; without it, the pupil must expect, at every step of his probation, to contend with difficulties which will retard his progress, and which, though they may diminish as he advances, will nevertheless always continue to be sources of embarrassment, tending to circumscribe both his usefulness and his reputation.

I know that there are those who, without this education, are fully competent to exercise any professional employment with credit to themselves and advantage to the public : there are those whose capacities for improvement, and whose thirst for information, are such as scorn the trammels of scholastic discipline ; who can qualify themselves for any business, without creeping, at a snail's pace as they think, through all the forms of grammar-schools and colleges : these are gifted with powers which with difficulty acknowledge the restraints of instructors ; they are nature's true nobility, whose patent heaven has registered upon their foreheads ; upon whom genius has impressed her tower-stamp ; and they would wear her livery and honour her service, be their avocations what

they might : but they are exceptions to all known rules ; their number, too, is comparatively small, and if ten times multiplied, our profession would have no exclusive right to claim them as its members.

However much we, as individuals, may regret the injury done to medical degrees by the indiscreet or interested distribution of them, it is only as they affect the character of the license, and as they are calculated to defeat the intentions of the law of the State, that they interest us in our corporate capacity. But while I feel constrained to charge upon them so large a share of the abuse of medical privileges, I should do injustice to my subject were I to permit the evasions of the law in respect to the licenses themselves, as they are occasionally issued by the county societies, to pass unnoticed : those infractions it is true are not numerous, and they appear to have arisen more from the latitude of construction given to its provisions, than from a contempt of its restraints ; still, as it is of the first importance that the law should not only be rigidly but impartially executed, they are proper subjects for the cognizance of the Society. At a previous session they claimed your attention, and it is presumed that, as they have lost none of their interest, they will continue to be objects of solicitude till corrected by statute.

It is not a matter of indifference whether or not the physician merits those privileges which the law of license permits him to exercise, because those privileges invest him with the power to do incalculable good or infinite mischief ; and whether it shall be the one or the other, must depend entirely on his medical education, while those who must be the subjects of his skill are utterly incompetent to judge of its amount. In all other practical sciences, the intelligence of the community is sufficient to estimate the desert to which every individual is entitled, who makes a claim upon their confidence ; the exhibition of their talents is a public exhibition, and the success of their labours is measured without reference to that stupid doctrine of fatality which is prone to confound all distinctions, whether of morals, intellect, or acquirement. In one essential respect our profession differs from every other ;

the mistakes of other professional men can be, and almost always are corrected by the superior intelligence of its fellow-members ; the evils of mal-practice or ill counsel in matters relating to property, for example, can at most but *delay*, they never can *defeat* the ends of justice, unless moral turpitude comes in aid of ignorance. Not so in the practice of physic : the errors of the physician, in few instances, admit of a complete reparation ; in most, they permanently affect the suffering individual. The loss of all active usefulness, remediless disease, or a premature old age, whose duration is only measured by its wretchedness, too often are their sad results ; and ignorance, apart from any moral baseness, can destroy both health and life, and, in their wreck, the social happiness of a whole community. There is no court for the correction of errors in the practice of physic, at least none which can afford relief to the unfortunate subject of an ill advised, or perhaps, under the circumstances of the case, a poisonous medicine : the most that may be expected (and this is far too much) is that the victim's misfortune may serve as a lesson to others equally unskilled in their profession, and teach them another truth of which it was always their sin to have been ignorant. There is scarcely any person whose experience is so limited as not to have presented evidence of the truth of the above remark : those who have witnessed the desolation of a wide wasting epidemic—who themselves have tasted all the bitterness of widowed hope—who have been called to inter in rapid succession every staff of their support, whether present or in prospect—and who, but for the anodynes which even protracted sorrow kindly furnishes to the distressed, would have drained the cup of unmingled wretchedness, and found their only refuge in despair, and there are some such—they know the immeasurable difference between a well-instructed physician, and one who merely values his vocation for the profits which it yields. There are times when the intelligence of the best informed is taxed to the utmost limit of its ability to arrest the march of disease, or suggest a remedy which shall avail to ward off the stroke of death ; and when they do occur,

where shall the half-educated or the imprudent physician be found? "When the files of recorded fact afford no precedent:"—when, if they did, the disastrous issues which await a moment of indecision forbid a reference: when the impending gloom of the grave affrights from their wonted exercise the kindest affections of the heart, and death, clothed with all the terrors which its realities possess and its fears can borrow, oppresses with heartless despair both the patient and his attendants:—then it is, that the intelligent physician stands, as it were, between the living and the dead, the honoured instrument of blessing, qualified alike to dispel the distracting doubts of friends, and to calm the anxieties of the suffering victim of disease; or, in failure of success, to justify himself before God, his conscience, and the sorrowing family: while the ignorant practitioner, affecting, for the first time, to have been made sensible of his deficiencies, contemplates in stupid amazement, the event which he can neither avert or control, and is *too* happy if peradventure he can solace himself with the reflection, that the distress which he witnesses he had no agency in creating.

But there is one other view in which the subject of education presents, which is peculiarly interesting. Other things being equal, those who are best educated are those who possess the best practical moral: the man of letters, for instance, is rarely found to indulge that mercenary disposition which lies at the foundation of almost all the petty vices which mar the pleasures and interrupt the harmony of social life. The first lesson of avarice is always taught by poverty, or the fear of it, and the second by pride; but its pupils are those who will learn nothing else so readily. The scholar, elevated above the reach of the one by his capacity to render himself useful, and building his hopes of distinction upon the powers of his mind rather than the influence of his wealth, is free to exercise the kindly sympathies of his nature without danger of rebuke from selfishness, although the price he pays for the satisfaction may ill suit his convenience; if peradventure he is in straitened circumstances, his poverty is without meanness; if otherwise, his affluence is without ostentation. It is

this generosity of temper, next to an intelligent discharge of duty, which renders the character of a physician estimable ; without it he *may* be useful, but with it he *must* be respected ; and if the virtues of humanity and charity are so necessary, it is important that his education should be such as will allow the fullest scope for their exercise.

As the improvement of medical science is known to be intimately connected with the happiness of society, and to depend almost exclusively on the measure and quality of education which the pupil receives previous to his admission to practise, it would seem superfluous to indulge in any further remark on this subject ; although it must be confessed that the benefits to be derived from any changes in this respect, must of necessity be prospective. There are, however, other circumstances which affect the character of the profession as it now is, which claim your special attention. It has created no little surprise among all classes of intelligent men, that the interests of medicine should have received less protection from the laws than those of any other profession ; and it is impossible that the public opinion should be mistaken, so long as the 20th section of the act, regulating the practice of physic and surgery, shall continue to extend immunity to every species of medical imposture. This section professes to be penal, yet the very terms in which it is couched defeat the end designed by its enactment. It provides a penalty for each and every breach of the law of license of which the party may be convicted, but prescribes a mode for its prosecution and recovery which renders the section completely nugatory. It is made the duty of the overseers of the poor to commence the suit, though no penalty attaches in case of their refusal ; and their apology is not destitute of support. When required to prosecute, they answer, that it is inexpedient to apply the funds entrusted to them for the support of paupers, to defray the necessary expenses which must accrue whether the prosecution be successful or not ; and as the uncertainty of conviction, and the still greater risk of not realizing the penalty, are with them matters of serious consideration, they prefer neglecting their duty to hazarding their trust-funds in attempts

to execute the law. This reasoning, however much it may be at variance with the good sense of that part of the public who duly estimate the importance of the medical license, finds an ample support in the first proviso appended to the section : its terms are, "*Provided, that the person so practising without license, who shall not receive any fee or reward for the same, shall be exempt from the penalty of this act.*" This clause, save one to which I shall presently refer, is perhaps, the most extraordinary provision which ever found a place in our statute book ; it makes the penalty attach, not to the practice of physic without the evidence of proper qualification, but to the receipt of a fee therefor ; it makes no account of the disastrous consequences of unlicensed ignorance, but seriously attacks the petty emoluments of its craft ; it, in effect, punishes the *larceny*, while it acquits the *homicide* ! The section, without this proviso, can serve no purpose in preventing quackery and imposture from battenning on the credulity of the public, from the difficulties attending its execution : and with it, in place of being penal, it operates as a bounty ; for he must be stupid indeed who, with its assistance, has not ingenuity sufficient to elude the penalty. If there be any serious intention to protect the public against the impositions so frequently practised by men who assume without warrant the character of physicians, the offence should be made a misdemeanour, to be prosecuted by indictment, and punished at the discretion of the court, within a reasonable limit of severity : nothing less than this offers the slightest encouragement to expect, that the nuisance can ever be effectually corrected.

If the remarks just made are warrantable, in what terms can I speak of the proviso which follows, in order to convey a correct idea of its injurious tendency ? "*Provided also, that nothing in this act contained shall be construed to extend to debar ANY PERSON from using or applying for the benefit of any sick person any roots, barks, or herbs, the growth or produce of the United States.*" The first only intended to restrain unlicensed practitioners, who professed to be physicians ; this patronises every pretender to the healing art, be his merits what they may, provided that he restricts himself in the choice

of remedies to those articles which are the growth of this country. The one presumes that "a *little* learning is a dangerous thing," and interdicts its exercise; the other grants a complete immunity to those who have *none at all*; and next to the downright slander, that the science of medicine is merely conjectural, and its practice a game at hazard—that it is an occult art which men in their distresses will consult, but in which none in their senses will confide—this last implies the most opprobrious censure. The notion that the congenital wit of a seventh son eminently qualifies him for the business of a physician, without the labour of thought or study—or that royal fingers, used like Perkins' tractors, are specific in the cure of scrofula—while they are wisdom in comparison, are not half so degrading to the profession. Those were prejudices, nursed by ignorance, in times when common sense was obliged, for conscience' sake, to do homage to the basest superstition; when it was a sin to be wise at all, and an aggravated offence to believe more or less than was set down: this is a serious enactment of an enlightened legislature, made less than thirteen years ago; and, as if to render it a still greater anomaly, it makes part of a law regulating the practice of physic and surgery!

It is not easy to assign a satisfactory reason for its introduction in the original law of 1806, unless, indeed, the difficulty of procuring any act for the regulation of the practice of physic was such, as to render this sacrifice to a most unreasonable prejudice, necessary. If so, though it has served its purpose, it must be confessed, the public have paid at a dear rate for the accommodation. The legislature of this State is, perhaps, as intelligent a body of men as any in this country, but in all large assemblies there will be some whose erratic course of conduct will render it a mooted point, whether prejudice or perverseness; a want of information, or a determination not to be informed, governs their opinions: we know that there are some, whose credulity by a strange fatality, appears to be inversely as the amount of testimony. Whether the influence of such will operate to an extent sufficient to prevent this scandal of the profession from being wiped from the statute

book, we cannot say : we can only hope the contrary. It may well be questioned, however, whether the records of legislation can furnish any thing to be compared with this offensive clause ; for, view it in whatever light we may, it stands without apology.

To provide for the education of physicians—to settle the terms and courses of study—to endow and patronise schools for their instruction, and at the same time, dispense with all in favour of a set of men whose celebrity is known to be founded upon their avowed contempt of all information, other than that which (if it be to be acquired at all) savage life can best teach,—involves an inconsistency which the utmost ingenuity cannot reconcile. The untutored Indian may possess a knowledge of vegetables, which a habit of close observation may render, to a certain extent, efficient in the treatment of diseases incident to the hunter state, which are few and simple, precisely in proportion to the distance of its removal from a state of civilization ; but to expect that the same remedial means will or can be successful in the condition of society in which we are placed, is scarcely less than absurd. If ever there was a law which required to be repealed, as much for the credit of those who enacted it, as for the benefit of those for whom it is presumed it was enacted, this assuredly is of that character ; for it cannot be made consistent with itself without assuming as truths what no man of common sense will be willing to allow, viz.—that all these professors of a vegetable materia medica are *seventh sons*, or that the country produces *no poisons* !

It may be expected before closing this address, that I should say something in reference to the medical politics of the College of Physicians and Surgeons in the City of New-York, as I have taken a more than ordinary interest in them for the last six years, but more especially as they are intimately connected with the honour and dignity of the profession in this State. A detailed exhibition of the controversy, which has distracted that school, and which threatens to destroy it if not speedily adjusted, suits neither this place nor this occasion ; though it is a subject of regret that it is not better understood :

but as such a sketch of its history as will enable the intelligent inquirer to compass its merits, can conveniently be given, without the necessity of entering into detail, I deem it my duty to present it.

The charter of the College of Physicians and Surgeons was granted by the regents to the physicians of New-York, on the prayer of their petition in March 1807, but it reserved to the grantors the right of altering and amending it in any, and every respect, as they should deem expedient. Before it had been one year in operation, that is, in March 1808, they resumed some of the powers granted, and took upon themselves the appointment of all its officers: during the three succeeding years, they altered and amended, removed and appointed so frequently, and it would appear so unfortunately, that, according to the report of the regents themselves, not less than five different interests were represented at their board, each of which prayed for changes; till, in order to terminate at once "all the feuds existing among the professors," they again amended the charter in 1811, revoked some appointments, made others, and limited the number of trustees to twenty-five, although they did not appoint them until the spring of 1820. In 1812, only one year after this, the regents, by virtue of their reserved right, (which had so often brought them into difficulty by making them the umpires of the conflicting interests of professors, for during all this time and for a long period afterwards we hear nothing of trustees,) abrogated this charter, and gave an entire new one, in which those mischievous words, *we reserve to ourselves*, happily found no place: it was gladly accepted, and the college took a new departure on the tide, not of successful, but of dubious experiment.— During all this time, and since the year 1792, there had been existing another school, established as a faculty of medicine in Columbia College. In 1814 the professors of the two schools united, and the faculty in Columbia College was abolished; whereupon the regents again, but *with consent* of the trustees of the College of Physicians and Surgeons, made another new settlement of professorships. The college from this time to the year 1819 went on without noise or controver-

sy, except such as might have existed within their own doors ; for it had become, by the neglect of the regents to fill up the board of trustees to the number of twenty-five, in fact a concern of professors : they were a *majority, a quorum, a board of teachers, and a board of examiners*, with none to control them except the regents, and those removed at 150 miles distance, possessing no means of information but such as they themselves were pleased to furnish : and so it might have continued to this hour, had not the public become dissatisfied with the extravagant fees of tuition, which, in some cases, exceeded the authorized amount, as settled by regents, by sixty per cent. ; and had not the profession taken alarm at the inordinate proportion which the number of persons admitted to the degree of Doctor of Medicine, bore to the whole number of pupils belonging to the school, which, at one commencement, was within a fraction of the one half, many of whom had not complied with the requisitions of the laws of this State.

In 1820 the Medical Society of the County of New-York and the Medical Society of the State presented these subjects, which had become matters of notoriety, to the regents as abuses ; and the Medical Society of the County particularly, among other things, prayed regents to fill up the board of trustees with medical men resident in the city, in order that, as judges of medical propriety, they might correct what should be found wrong, and be readily convened for that purpose. The regents assented, vacated the seats of the non-resident members, and filled up the board, but permitted the professors to hold their seats as trustees.

Here the concerns of the college begin to assume a serious character. Hitherto their merits were confined, so far forth as regents were informed, to matters of personal interest among the professors ; now the *public* had their representatives at the board, and the interests which they represented did not, in all points, accord with the views of professors ; whereupon they who had agreed only to differ for the last ten years, now made common cause to resist the claims of the profession upon an institution which was emphatically a public one, and had partaken largely of its bounty. The new trustees, without for-

getting the courtesies due to gentlemen, although they were well satisfied that they had done all in their power to prevent their appointment, and particularly the appointment of such of them as were the petitioners for the change, made themselves fully acquainted with the condition of the college, and for a while contented themselves with suggesting improvements in the purest spirit of conciliation, in the hope that they would meet the views of the professors, and render unnecessary a further resort to the regents; and the school was conducted for a year or two in apparent harmony, nothing very material occurring to distract it, except an attempt on the part of professor to dislodge one of their associates, which was successful however, notwithstanding a majority of trustees were opposed.

The immediate causes of the difficulties *now* existing, between the professors and trustees, are, that the latter have withdrawn all their confidence from the former in the examination of candidates for degrees, and that they have been sedulous in their endeavours to improve the college finances. That they are perfectly justified in both these respects, will be manifest from the following facts:—It is necessary to premise, that candidates for the degree of Doctor of Medicine are required to pass several examinations, the first of which is always before and by professors alone, by whom they are recommended as qualified to appear before the board of trustees, whose alone is the right to recommend to regents. In the winter of 1824–25, a suspicion was abroad that the preliminary examinations of professors were not so rigid and impartial as they should be; and as it had been industriously circulated among the students, that these examinations were the most important, and that those before trustees were merely formal; and great pains had been heretofore taken by professors to inculcate this belief, on which account the offices of four of them were filled with those pupils who expected to graduate the ensuing spring—the trustees determined that, as it was by charter made their duty to recommend, they would satisfy themselves of the candidates' acquirement, and that their examinations should no longer be examinations *pro for-*

ma. They were furthermore impelled to this course from the fact having come to their knowledge, that in several instances the law of the State had been grossly violated, and their confidence abused. It perhaps is needless to observe, that the resistance of professors to this measure, so righteous in itself, and now so imperatively demanded by the honour of the college, was ill calculated to produce the conviction that the change was unnecessary. Professors argued, that it was an innovation on established usage, for the examinations before trustees had always been *pro forma* merely. The trustees allowed it was so, and that it might have been proper, for that, under the former arrangement of the board, the examination was, in fact, held before the same men, the professors being the whole of their own board, and a large majority of that which recommended the candidates, and it was this vicious organization of it which induced the regents to change its character. The professors were obliged to submit, but they did it so ungraciously, that the whole school was in rebellion against trustees' authority. In order to prevent a repetition of the same scene, the trustees, by ballot, appointed a committee to draw up a memorial to regents on the condition of the college, and recommend such changes as they thought the honour and usefulness of the school required. It was done—the college convened to discuss said report and memorial—professors staid to hear it read, but in place of attempting reasonably to argue against its adoption, or even to amend it in any one particular, and in failure of success to enter their protest on the minutes to be transmitted to regents along with the memorial; they, as if by consent, all left the board and destroyed the quorum. The report, however, was at a subsequent meeting acted on, amended, and accepted by the trustees, and duly sent to the regents. It contained two essential recommendations, calculated in the opinion of the trustees, if adopted, to heal all differences by removing all causes of disagreement. The one had relation to finance, the other to the power of making their own by-laws. It was shown to regents, in that report, that the college was actually insolvent, if required and obliged immediately to pay its debts, notwith-

standing it had received from the State upwards of *sixty-six thousand dollars* : that a large part of its mismanagement was justly chargeable to the professors, who had been for a long time a majority and a quorum of trustees to transact all its business : that they had improvidently expended college funds, and even college credit, when these funds were a *minus quantity* : that while they, as professors, had been receiving from *ten to twelve thousand dollars* per winter for their *public lectures* ; as trustees of the public bounty, they had permitted it to be exhausted in the payment of interest for moneys anticipated for their accommodation, and in expenses ; to neither of which objects had they ever contributed one cent : so that, at last, they had become its creditors to the amount of *twenty-one thousand dollars*, about the just value of all its property. On all which accounts they prayed regents to compensate professors by salary, and take the surplus of tuition moneys to build up the college finances, and enlarge the school. The power of making their own by-laws appeared so reasonable and proper in itself, that it was scarcely urged except as a measure of convenience to regents. In all this not a single remark was allowed a place calculated to impeach the character of the professors as individuals. They however, in a great measure, escaped from the discussion of the questions at issue, by impugning the motives of the trustees, and charging them with hostility ; whereupon the regents, in order the better to judge of the merits of the controversy, required both parties to appear before them on 29th March last. The result of this trial is now before the public.

The measures then recommended by a committee of regents, if successfully carried out, would have healed all dissensions, no doubt ; but the college would have become, in fact, a private school, and the public finding that they had no interest in it, would have ceased to trouble themselves with its concerns. The measure then in contemplation was to remove all the trustees, except the professors, and fill their places with those who, however else they might be qualified, should be deficient in that especial particular which alone could fit them for the discharge of their duty—*they were not to be physicians*. The

doctrine of vested right now interferes, and those who were to be dismissed from their employment loaded with compliment, are still retained from necessity.

The regents now, with a solicitude which in a great degree redeems their indiscretion, send a special committee to New-York, who, after a patient examination of several days, frame an elaborate report, which is now before the public in a pamphlet form. Of the merits of this report it becomes not me at this time to speak ; the burden of all its argument is to show, that trustees are *useful* as guardians of the college property, but *useless* as judges of medical acquirement ; and whether the medical profession will feel themselves complimented by this decision from such high authority is very questionable.—The merits of this college controversy, stripped of all personal considerations, resolve themselves into this single question : whether or not the patronage of this State should be knowingly devoted to the interests of a monopoly ? The question, though simple as the answer is obvious, has been productive of much embarrassment to the regents, and has made them, against their consent, a third party in the dispute. The principle on which all public bounty should be dispensed, needs no illustration. When the legislature of a state patronise literary and scientific institutions, they, in effect, purpose to render their funds more productive by a transfer of them from one object to another ; they never can, without gross neglect in their management, or sheer mistake in the investment, lose their interest in them ; the property continues to be theirs, and like all other capitalists they have a right to require that their money should be farmed for their own account, and in no case diverted from its proper uses. It is in evidence, that the State bounty to the college has been mismanaged ; and it is just as certain, that all the the evils which now distract the school have grown out of its vicious organization which favoured such mismanagement. The wonder is, that the only remedy which ever promised to be successful in healing the dissensions, is precisely that which the regents *will not* apply, viz.—the separation of the teaching from the governing powers, or the removal of professors from the board

of trustees. Here vested rights do not interfere, or if they do, the interest of professors would willingly waive them, rather than jeopardise the amounts which they receive for instruction. As the college now is, the professors possess (regents being judges) a monopoly: it remains to be seen whether the public will support it. The only privileged orders which the people of this country will tolerate, are the aristocracies of wealth and intellect—the former from necessity or interest—but the latter only from respect, and it must be a voluntary homage. A literary monopoly, therefore, is an anomaly which no human ingenuity could create, or, if created, no patronage could support; and any attempt to tread down the intellect, or stifle the enterprise of an intelligent community by patent privilege, must prove abortive of necessity.

Sedet, æternumque sedebit, may serve as the motto of a professor's chair in countries where public sentiment is controlled by patent; but we have a *chancery*, in this State, in public opinion, whose decisions are always according to truth—and if its judgment be not as summary as it is righteous, it is because of the delay in furnishing the testimony. To that power, whether they will or not, all must submit, and to it the medical profession cheerfully refer this controversy.

