

**A general view of the establishment of physic as a science in England, by the incorporation of the College of Physicians, London : together with an inquiry into the nature of that incorporation : in which it is demonstrated, that the exclusion of all physicians, except the graduates of Oxford and Cambridge, from the corporate privileges of the College, is founded in usurpation, being contrary to the letter and spirit of its charter / by Samuel Ferris, M.D. F.S.A. &c.;**

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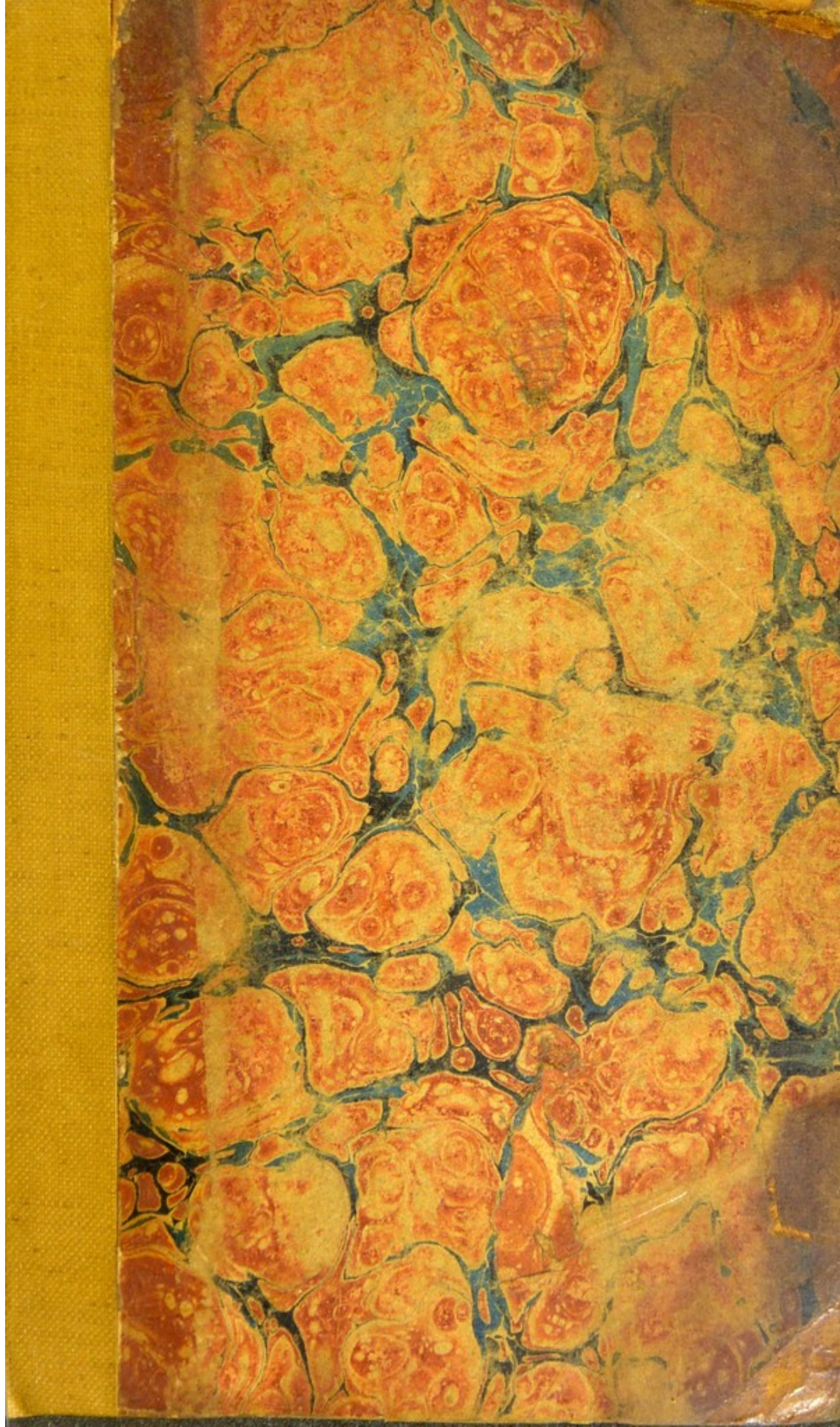
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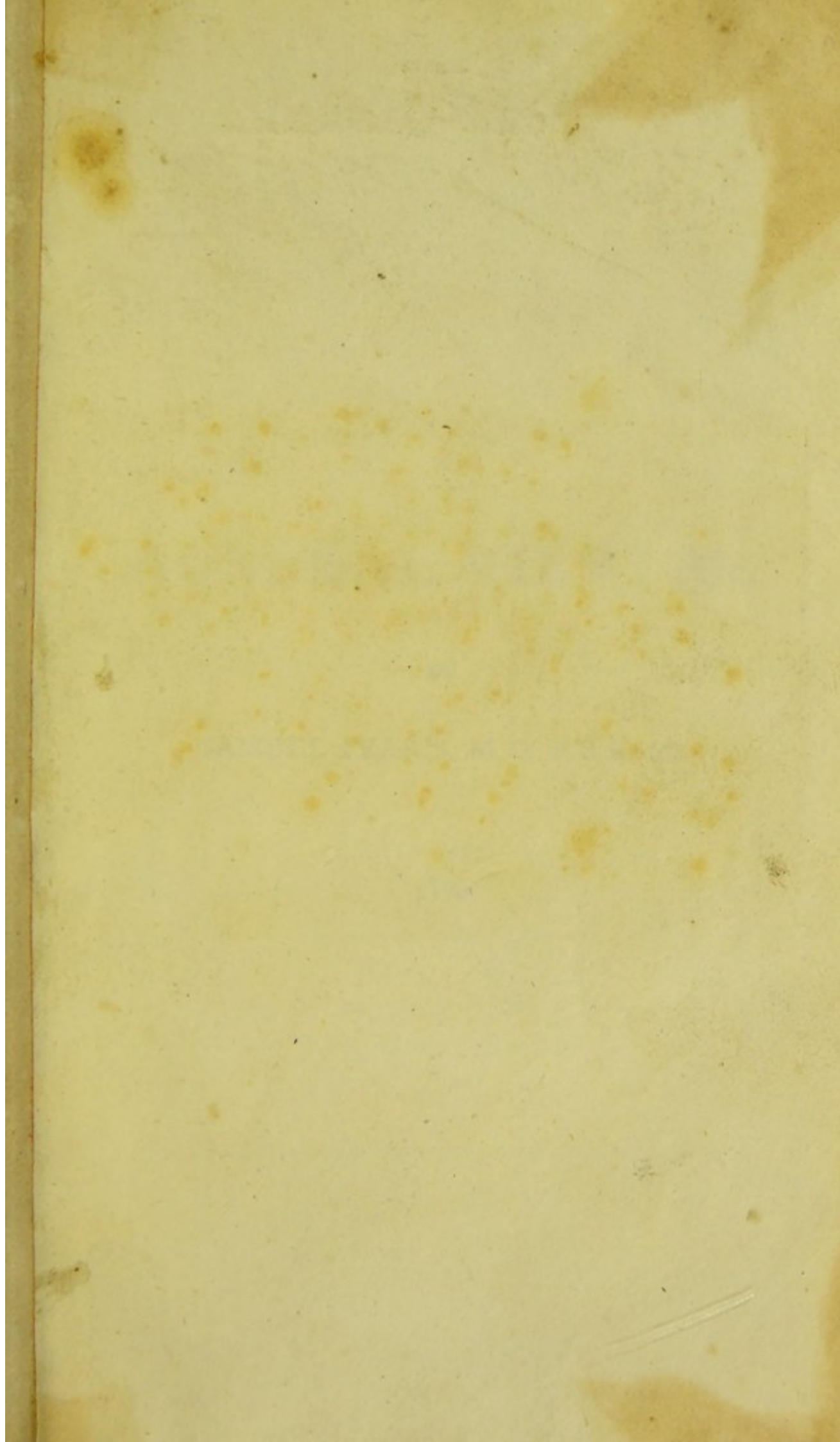
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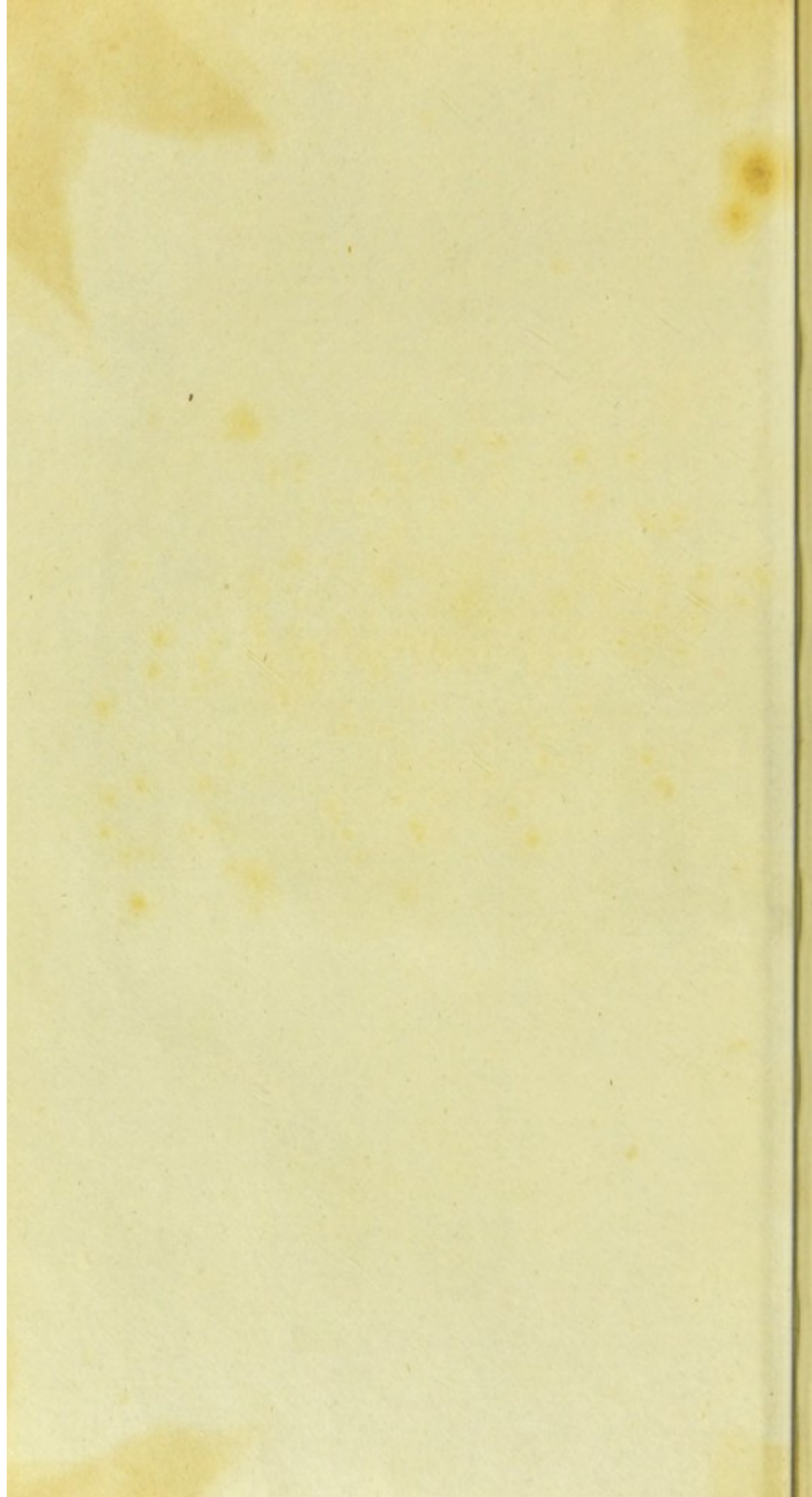
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A  
GENERAL VIEW, &c.

BY  
SAMUEL FERRIS, M.D. F.S.A. &c.

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1795.



GENERAL VIEW, &c.

by

SAMUEL FERRIS, M.D. F.R.S. &c.

1792

A  
GENERAL VIEW  
OF THE  
ESTABLISHMENT OF PHYSIC  
*AS A SCIENCE IN ENGLAND,*  
BY THE  
INCORPORATION  
OF THE  
COLLEGE OF PHYSICIANS, LONDON.  
TOGETHER WITH  
AN INQUIRY  
INTO THE NATURE OF THAT INCORPORATION.

IN WHICH IT IS DEMONSTRATED,  
THAT THE EXCLUSION OF ALL PHYSICIANS, EXCEPT THE  
GRADUATES OF OXFORD AND CAMBRIDGE, FROM THE  
CORPORATE PRIVILEGES OF THE COLLEGE, IS FOUNDED  
IN USURPATION, BEING CONTRARY TO THE LETTER AND  
SPIRIT OF ITS CHARTER.

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BY  
SAMUEL FERRIS, M.D. F.S.A. &c.

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" Patere honoris scirent ut cuncti viam."

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LONDON:

PRINTED BY C. WHITTINGHAM,  
FOR J. JOHNSON, IN ST. PAUL'S CHURCH-YARD; AND J. CUTHELL,  
IN MIDDLE-ROW, HOLBORN.

1795.



# GENERAL VIEW

OF THE ESTABLISHMENT OF PHYSIC

AND SURGERY IN ENGLAND

IN CORPORAATION

COLLEGE OF PHYSICIANS LONDON

AN INQUIRY

INTO THE NATURE OF THAT CORPORATION

IN WHICH IT IS SHOWN THAT THE ASSOCIATION OF ALL THE PHYSICIANS EXCEPT THE  
GRADUATES OF OXFORD AND CAMBRIDGE FROM THE  
CORPORATE UNIVERSITY OF THE COLLEGE IS FOUNDED  
IN ASSOCIATION WITH THE LETTER AND  
SPIRIT OF THE CONSTITUTION

BY SAMUEL FERRIS M.D. F.R.S. &c.

LONDON

PREFATORY ADDRESS  
TO  
*THE LICENTIATES*  
OF  
THE COLLEGE OF PHYSICIANS  
*IN LONDON.*

---

GENTLEMEN,

THERE is a peculiar propriety in addressing this Pamphlet to you. It relates to objects in which you are particularly interested, and it is published in compliance with the repeated solicitation of many of your number. I could not have been influenced by an inducement more gratifying, and I have only to lament, that, in yielding to so flattering a request, my abilities have not been equal to my zeal.

The College of Physicians in London have a legal power, vested in them by charter and by act of parliament, to prohibit the practice of all  
2 physicians,



physicians, within London and seven miles round, who have not been admitted to practise, by letters of the president and college under their common seal. The eligibility of a physician to be so admitted to practise, as specified in the charter and in the subsequent act of the fourteenth and fifteenth of Henry VIII. depends upon his being "*doctus & probus*, or sad and discreete, "groundly learned and deeply studied in phy-  
"syke."

Eligibility, dependant upon such qualifications, could never be ascertained without previous examination. The test of eligibility, by examination, was appointed by act of parliament, to be given to the Bishop of London and Dean of St. Paul's, and four approved physicians, before the College of Physicians was incorporated; and the necessity of examination is expressly stated in the statutes of the college of the date 1607\*, the earliest that I have seen. It is therefore obvious, that the college, from their earliest existence, adopted the plan of examining every candidate for admission, as to his competency as a medical practitioner.

By

\* Cum autem nullo modo (nisi examinatione habita & scrutinio) compertum esse possit, quam sit quisque medicus idoneus, ut secundum Regni leges, ad medicinæ praxin admittatur, statuimus, &c.



By a fucceffion of admitted members, the perpetuity of the eftablifhed college was to be maintained; and the prefident and college were authorized to make by-laws for the *wholefome* government, fupervifing, and correction of the faid college, and *of all men* praftifing phyfic, in London and feven miles round. Long after the college was incorporated, the medical praftice of the furgeons and the apothecaries was under the controul of the admitted phyficians.

It has never been directed, either by the charter, or by any act of parliament, in what manner the college were to examine the phyficians, whom they admitted; it confequently follows, that their forms of examination, and of fubfequent admiffion, have been prefcribed only in their ftatutes or by-laws.

A particular knowledge of the hiftory of any incorporated fociety, is, certainly, not a requifite qualification for admiffion to its fellowship. As licentiates of the College of Phyficians, we may all, perhaps, on a retrofpect of our examination and admiffion to praftife, avow our total ignorance, at that time, of the by-laws, under which the college conducted the one, or granted the other. The by-laws of the college are not publifhed fo as to be purchafed, they are



now neither presented to the licentiates, nor read to them. To bind men to the observance of laws, with which they have not the means of becoming acquainted, is incongruous to every idea of rational and impartial jurisdiction.

I have ever considered this conduct in the College of Physicians, with a distrust of its motive, and have as often contemplated, with astonishment, the wide difference of privileges and rank possessed by the fellows of the college and the licentiates. I have neither observed the appearance of greater abilities, nor of maturer judgment, in my intercourse with the former than with the latter. Their public productions have not, oftener, displayed either general learning or professional knowledge. The licentiates have been as industrious as the fellows of the college, in the pursuit of all useful information. They are as conversant in polite literature. They have studied under the same medical professors with many fellows of the college, and have possessed all the advantages of attending the same hospitals.

Considering these circumstances I was confident, that not any superiority of claim was to be conceded to the fellows of the college, under the presumption of exclusive excellence,

or



or of preeminent abilities : but my curiosity was not, till lately, excited to investigate the source of so conspicuous a distinction, among the examined, approved, and admitted physicians of this metropolis and its vicinity : a distinction so degrading to the professional character of every licentiate.

In prosecuting the inquiry it was readily discoverable, that the college, when they framed their statutes relating to the admission of members, had lost sight of all “ due consideration of the design and intention of the crown and parliament “ in their institution.” They have generally established such statutes upon an arbitrary principle ; in consequence of which, every licentiate, when admitted to practise, has been directed to subscribe to a declaration of his own comparative ignorance. For he is *constrained* to receive a license under a by-law, which declares his incompetency to become a member of the college ; whilst the graduates of Oxford or Cambridge, or those, who have been incorporated there, are considered exclusively entitled *to apply* for admission into the corporation.

The demanded testimony of professional capacity and acquirements is, nevertheless, *essentially*



*tially* the same for the license and the fellowship. If it were not so, the censors would violate their oath to the college, and their obligation to the public, by a flagrant breach of an important trust; because the right of practising is as unlimited with the licentiates as with the fellows, and it is as requisite to investigate their qualifications. There has been introduced, indeed, of late years, for the sake of a colourable distinction, a trifling difference in the form of examining the candidates for the fellowship. But the licentiates have been denied the very right of undergoing this form of *examination* for equal privileges.

In the printed copy of the College statutes, of 1765, there is but one form of examination for the candidates and licentiates. It was not until after the absurd and riotous contest, in 1767, of some of the licentiates for admittance at the college gates, that any actual difference was established in the examination of the candidates. The first *regular* admission of a fellow of the college, after that period, was in 1773, and the new form required the candidates, as a proof of their knowledge of the Greek language, to render into Latin, during their examination, some passages from the writings of Hippocrates and Galen;



Galen\* ; and to illustrate them by a short comment.

There is not any material objection to the requiring such a proof of the learning of any physician, who is solicitous of the privileges of the corporation. But if to translate from Greek into Latin, with a concise comment, the writings of Hippocrates and Galen, or of Aretæus, or of any other Greek author, be the ultimate test of medical erudition exacted from their candidates, by the College of Physicians; why are not all men equally entitled to admission, who are equally competent to that test? Let the exacted proofs of learning and of professional capacity be what they may, the sole question is, and the only inquiry ought to be, whether those, who apply to be admitted, are, or are not, adequate to the established probation?

If among yourselves, gentlemen, who are debarred from the highest privileges of the faculty of physic, there be physicians, who are in reality,  
as

\* The medical riot in Warwick Lane was in September 1767. The college statutes were abrogated soon afterwards, with a view to establish an amended Code. In the alterations proposed to the college by their committee; and printed without a date, the following statute is recommended. “ Statuimus etiam & ordinamus ut singulis eorum, qui vel in ordinem Candidatorum vel Sociorum admitti petunt, proponantur inter examinandum loci ex scriptis Hippocratis  
“ & Galeni,



as well qualified, in all respects, as the *allowed* candidates for the fellowship of the college; can they possibly conceive, that their exclusion is not arbitrary and oppressive? Will they be diverted from that opinion by discovering, that, in the very act of accepting their license, they *unknowingly* subscribed to the reproachful imputation of self-inferiority? and that, by doing so, they were betrayed into an apparent acknowledgment of the justness of a distinction, which disparages their abilities, and depreciates their merits, in comparison with men of neither better understanding, nor of higher acquirements than themselves?

To exact from any man that, which it is dishonourable to execute, is an example of tyranny, which but ill accords with the notion of a refined age; for the ideas of progressive refinement and of the gradual abandonment of vulgar prepossessions are inseparably associated in the mind. Among those, to whom the concession of rank is admitted to be just, upon a presumption of their superior attainments, mankind are irresistibly led to expect men, with minds enlightened by science, who, in the acquirement of extensive knowledge,  
have

“ & Galeni, quos apte latine reddant brevique commentario  
“ illustrent.” I conjecture these proposed alterations to have been printed about the year 1768. There was a draught of new statutes, printed in 4to. in 1750, which I have not seen.



have learned to temper their judgment with moderation, and to free their decisions from prejudice ; men, who, in the conduct of life, disdain the low principles, which actuate the illiterate.

If it be urged, that there really are, among the present fellows of the College of Physicians, men of this description ; men, whose literary acquirements reflect dignity on their professional character ; if it be granted, that there are, among them, men, whose gentlemanly conduct and suavity of manners, *in private life*, conciliate more than the common esteem of those, who have the pleasure of their acquaintance ; how is it to be reconciled, that, *in their corporate capacity*, they infringe every sentiment of liberality, by the narrowest and most pertinacious adherence to the principles of corporation monopoly ? Even, in their admission of licentiates to the fellowship *speciali gratia*, has their selection been determined by a generous attention to extraordinary merit ? Has it not rather been governed by partial recommendation, and frequently accompanied by such humiliating conditions, that, in the manner of conceding, they have cancelled all the favour of the concession, and obliterated even that semblance of honour, which might, otherwise, have graced the acceptance ?



A Greek examination is, or is not, requisite for ascertaining the competency of candidates for the fellowship of the college: if it be unnecessary, the sole intention of establishing it must have been to create an invidious distinction, between the *ostensible* learning of graduates of the English and of other Universities. If it be in reality essential, the partial recommendation, alone, of a president, or of any other man, however high in professional consequence, is not an adequate proof of proper qualification to be admitted to the fellowship. As little is it a proof of ingenuoufness of mind to oppose the admission of men, who have already given every requisite proof of competency in professional knowledge, and who solicit the established test of classical erudition. Such an influence of recommendation is incompatible with the fundamental principle of the incorporated college; such an opposition betrays a want of candour and consistency.

It might reasonably have been expected, that, when the college abrogated their statutes, which excluded aliens, who are legally incapacitated for the offices of the corporation, they would have abolished those, likewise, which exclude British physicians. It would have shown a stronger attachment to the obligation of their trust, than to the influence of partial intercession. Complimentary



tary compliance, from interest or personal favour, is a violation of duty in the exercise of offices of public confidence; and what else, but a compliment, can it be reckoned, to concede the honours of the college to those, whom the laws of the land interdict from executing any of the official functions of the fellowship?

After deliberate investigation, I am thoroughly persuaded, that the College of Physicians never had authority, *legally conceded* to them, to refuse the corporate privileges of the college to any Physician, wheresoever he might have been educated, provided he were competent, by the law of the land, to execute offices of civil trust, and were found, upon examination, *satis doctus et probus*.

It has been my endeavour, Gentlemen, to give you a clear and candid view of this question. I cannot have an interest in perverting your judgment. You must observe that I have been, as Dr. Goodall formerly declared himself to have been, in vindication of the college, “ forced to adventure  
“ upon the exercise of more faculties than one,  
“ and to meddle in matters of law as well as of  
“ phyfic\*.” It was the opinion of Junius, that  
“ to investigate a question of law demands some  
“ labour

\* The Coll. of Phys. vindicated. Preface to the Reader.



“ labour and attention, though very little genius  
 “ or sagacity.” It may be, perhaps, allowable  
 to shield myself, under the authority of so able and  
 perspicacious a writer, from the charge of teme-  
 rity and presumption for attempting this. My  
 utmost vanity, Gentlemen, could never so obscure  
 my judgment, as to induce me to fancy any dis-  
 play of genius or sagacity in the inquiry, which I  
 address to you : yet I may acknowledge that my la-  
 bour has not been inconsiderable, nor my attention  
 cursory. If, nevertheless, a too implicit confi-  
 dence in the truth of my argument, have be-  
 trayed me into a too firm reliance upon untenable  
 conclusions, I am open to conviction, and should  
 be more gratified to see those conclusions candidly  
 refuted, than I could possibly be in the enjoy-  
 ment of the highest advantages obtainable upon  
 the ground of error. Under all circumstances, I  
 trust myself secure in your favourable opinion  
 of my motives for the attempt. To those, whose  
 peculiar studies enable them to form a better  
 judgment of the subject, some apology is, certain-  
 ly, due.

You have all been apprized, Gentlemen, that  
*an Address* has been sent to the College of Phy-  
 sicians, requesting admission for others to the fel-  
 lowship, under the same examinations as those,  
 under



under which the graduates of Oxford and Cambridge are admitted. Such an answer, as was due to such an address, such an answer, as they were indisputably entitled to, with whose signatures that address was presented, might have rendered this obtrusion, upon the public notice, of their grounds of claim, unnecessary.

That decorous respect from man to man, which is the chief characteristic of civilized society, and that reciprocal observance of becoming ceremony, which is the surest defence of relative rank, are seldom invaded, except from a proud reliance upon a fancied superiority of intellectual accomplishment, or a dubious security of power. It is impossible that the genuine dignity of the College of Physicians can be more highly regarded, than by those, who signed that address, to which the college have not deigned to reply: there are not any more averse, than they, from contention among professional men: there are not any more reluctant, from principle, to commence litigation. "Our application arose," (as expressed in our address) "from no hasty project, or restless spirit of innovation. It was meant to advance a claim, which, we are well warranted to believe, is founded both in law and in equity." A widely different idea, however,



however, has been inculcated. Malevolence has attributed to our zeal a democratical and leveling spirit ; but the rectitude of our intentions, and the moderation of our conduct will appear, when all such malignant aspersions shall be contemplated as the mean subterfuge of stubborn usurpation, to evade the force of argument against assumed power.

Whatever zeal I myself have exerted upon the occasion, if it wore the appearance of such a spirit, it would falsify its principle. Not any man can be more indifferent, than myself, about the advantages derivable from the privileges contended for ; but as there are others of our number, to whom the same consciousness of right imparts a stronger solicitude to obtain it, I should have thought myself unjustifiable, upon the ground of personal indifference, in withholding my attention from the subject, or in disavowing my concern for the event.

I know, Gentlemen, that exclusion from the corporate privileges of the college cannot affect all of us equally. There are many of our number so long inured to the oppression, as to have become insensible of its consequences. Others, independent in circumstances, are regardless of professional



feſſional advancement; and both may be diſ-  
 poſed to exclaim, “ *et nos ergo manum ferulæ ſub-*  
*duximus,*” reluctant to ſubmit again to the ordeal  
 of an examination, of which their long eſtabliſh-  
 ment and character preclude every pretext of the  
 neceſſity. But if there be among our number thoſe,  
 who, although they have undergone every mate-  
 rial *examination*, which is ever demanded from the  
 graduates of Oxford and Cambridge, are willing to  
 ſubmit themſelves again to the teſt of inquiry, and  
 to demand *probation* legally, according to *the form*  
 for the candidates and fellows of the college; ſhall  
 the principle of our common right be abandoned,  
 and thoſe, who are eager to aſſert it, be left to ſtrug-  
 gle for themſelves? Will you not aſk yourſelves,  
 under what liberal or rational idea, under what poſ-  
 ſible pretence, that has the appearance of benefit  
 to mankind for its object, can ſuch men be denied  
 the right of an examination as candidates for the  
 fellowship of the college, and, however qualified,  
 be excluded from all the advantages of admiſſion?  
 I have declared myſelf intereſted only in the eſta-  
 bliſhment of the general right derivable from the  
 charter; and I perſuade myſelf that every man  
 among you, of an independent mind, will feel a  
 ſimilar impulse of duty to aſſiſt in the general cauſe,  
*if he be ſatisfied that it is a juſt one.* Should he be in-  
 different about the advantages for himſelf, he may  
 promote the good of others, to whoſe advancement  
 in



in life they might largely contribute, and who would embrace the opportunities, that might result from a mutual exertion, who, however, act under the firmest conviction that, “ *Ea animi elatio,*  
“ *quæ cernitur in periculis et laboribus, si justitia vacat,*  
“ *pugnatque non pro salute communi, sed pro suis com-*  
“ *modis, in vitio est.*”

It is under a similar conviction, Gentlemen, that I claim your attention to the humble offering, which I now present to you,

And I beg to subscribe myself,

Your obedient and devoted  
humble Servant,

SAMUEL FERRIS.

Harpur Street,

Jan. 1795.

A  
GENERAL VIEW,  
Æc.

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THE history of this country affords ample proof that not any considerable advancement had been made here, in either literature or philosophy, prior to the commencement of the sixteenth century. The University of Oxford had then, indeed, been founded upwards of six hundred years, and that of Cambridge, according to some authors, nearly five hundred years, or, as asserted by others, nearly six hundred: but hitherto the sources of knowledge had been few and circumscribed, and scarcely any but the ecclesiastics had availed themselves of literary improvement. They had, as well as in the cultivation of theology, zealously engaged themselves in the study of Roman jurisprudence. They were likewise almost the only physicians of their time; but the science of physic occupied

B their



their attention infinitely less than either divinity or law.

There were not many of our countrymen, who had arrived at any considerable eminence as physicians, prior to the reign of Henry VIII. It is commonly supposed that the first English physician, of sufficient character to be employed at court, was John of Gaddefden, who was called to attend the son of Edward I. or II. ill of the small-pox. But Matthew Paris has mentioned a Nicholas de Ferneham, as priest and physician to Henry III. and to his Queen, in 1241<sup>\*</sup>; and we are informed by Pits, that he was a physician endowed with all the learning of his time, and that he was retained at court with a considerable salary<sup>†</sup>. There are others noticed as learned physicians about the same period<sup>‡</sup>. I cannot find, however, any exception, but that of Nicholas de Ferneham, to the assertion of Dr. Freind, that,  
prior

\* *Ipsū igitur quāsi expertum, & scientia multipliciter & moribus commendabilibus insignitum, peritorum consilio Rex & Regina ad suarum vocaverunt animarum & corporum custodiam & consilium familiare, &c. Matt. Paris Hist. Angl. p. 550.*

† *De illustribus Angliæ Scriptoribus*, p. 312, 313; (called by Pits, N. Ferneham).

‡ Richardus Anglicus, author of several medical works.—John Giles.—Hugh of Evesham.—Gilbertus Anglicus, author of a *Compendium of Physic*, the earliest remaining writing on the practice of physic.



prior to the time of John of Gaddesden, all physicians employed here by the crown, were sent for from abroad\*.

Nicholas de Ferneham himself, although in early life educated at Oxford, resided a long time in Paris, and still longer at Bologna, where he studied Hippocrates, Dioscorides, Galen, and all the other most celebrated authors on medicine: and, as said by Pits, “*in patriam rursus longo post tempore venit*†.”

John of Gaddesden was of Merton College, Oxford, and was public professor of medicine. He was particularly eminent, so as to be called *the light of the age*‡, and the encomium itself sufficiently bespeaks the darkness which prevailed: for not any thing could possibly be more characteristic of ignorance and superstition, not any thing could betray more a mind adapted to the lowest quackery, than the practice of John of Gaddesden,

\* Nam ante hoc tempus Medici Regis erant semper ab externis regionibus accersiti. *Freind. Hist. Med. Oper. Omn.* 410. p. 304.

† De Illustribus Angliæ Scriptoribus, p. 312, 313.

‡ J. Gatisdene, an Englishman, and of Merton College, where he chiefly studied physick, for which he was called, *nostri seculi lumen*. *Peshall's Hist. of the Univ. of Oxf.* p. 66.



den, in the cure of his royal patient\*, as well as on all other occasions, at least in his medical capacity.

It was a custom long posterior to the time of Nicholas de Ferneham and John of Gaddefden, when princes were indisposed, for their privy council to make choice, out of the many pretenders to the science of physic, of those who were to attend at court. Thus when Henry VI. lay sick, the council assigned him three physicians and two surgeons, to administer freely about his person†.

It

\* Capiatur ergo scarletum rubrum, & qui patitur variolas, involvatur in illo totaliter, vel in alio panno rubro, sicut ego feci quando Inclyti Regis Angliæ filius variolas patiebatur, curavi ut omnia circa lectum essent rubra, & curatio illa mihi optime successit. *Joann. Anglici praxis Med. Ref. Angl. dict. 4to. p. 10050.*

† Seymour's Survey of London, &c. vol. i. p. 155.

Rotula, pat. 32. H. vi. m. 17. See Coke's Institutes, part iv. p. 251.

“ Rex adversa valetudine laborans de assensu Consilii sui  
 “ assignavit Johannem Arundel, Johannem Saceby & W.  
 “ Hatcliffe, Medicos: Robertum Warren, & Johannem  
 “ Marshall, Chirurgos, ad libere ministrandum & exequendum  
 “ in & circa personam suam. Imprimis, viz. quod licite  
 “ valeant moderare sibi diætam suam, & quod possint mini-  
 “ strare Potiones, Syrupos, Confectiones, Laxativas Medici-  
 “ nas, Clysteria, Suppositoria, Caput purgea, Gargarismata  
 “ Lealnen, Epithimota, Fomentationes, Embrocationes, Capitis  
 “ rasuram, Unctiones, Emplastra, cerera ventos. cum scarifi-  
 “ catione



It is neither to be wondered at, when there were so few opportunities of acquiring knowledge, as at that time, in Britain, that much caution should have been used in choosing physicians for the great, nor that the abilities of any man of moderate information should have been extremely over-rated.

The fate of Europe had been involved in that of Rome, and scarcely a trace was to be found of that science and love of letters, which characterized and added splendour to the age of Augustus. The human mind had relapsed from the highest state of cultivation and improvement, into that of the darkest ignorance and barbarism\*. Nor was the darkness dissipated, and the appearance of civilization and of learning generally restored in Europe, until the total overthrow of the Eastern empire, about the middle of the fifteenth century. Many, on the occurrence of that event, escaping from Constantinople, fled to Italy, and carried with them copies of those classical works, which

are  
 “ catione vel sine, emorodorum provocationes, &c. Dantes  
 “ singulis in mandatis quod in executione præmissorum sint  
 “ intendentes, &c.”

\* Almost all improvements of the human mind had reached nearly to their state of perfection about the age of Augustus; there was a sensible decline from that point or period, and men thenceforth relapsed gradually into ignorance and barbarism.  
*Hume's Hist. of Eng. vol. iii. p. 297, 298.*



are still valued as specimens of the highest efforts of human genius.

Among those who applied themselves to the study of letters, immediately after that period, there were not any of this country, who attended particularly to the science of physic as a profession, who did not acquire their medical, as well as classical, learning chiefly in the schools of Italy. It is evident, as in the instance of Nicholas de Ferneham, that long before that period it was usual for Englishmen to study physic in France and in Italy.

In the twelfth century, the medical schools of Salernum, Naples, and Bologna, were in higher repute than any other; and Paris likewise was much resorted to by those of this kingdom, who were emulous of learning. A great number of Oxonians are said to have returned, at the latter end of the thirteenth century, from Paris, where, *according to ancient custom*, they had applied themselves to the study of letters\*. But, after the restoration of letters, in the fifteenth century, all the great promoters of literature in England imbibed their best knowledge from the schools of Italy. Linacre, Lilly, Grocin, Latimer, and others, acquired

\* Oxonienses jam plurimi, operam in literis, *de more antiquo*, Lutetiæ ponebant, &c. *Ant. a Wood Hist. & Antiq. Univ. Oxonien. v. i. p. 128. Anno 1282.*



quired their knowledge of the Greek language on the continent ; and they were among the first, who laboured to establish, in Britain, a taste for the learning of the ancients\*.

In 1504, medical lectures were given in Oxford, by a foreigner of the name of Andrew Alazard. He came from the University of Montpellier, where he had graduated, to obtain a degree likewise at Oxford ; and, by the command of the chancellor and proctors, he gave lectures on medicine there, and explained, from tables of his own, *Avicenna de pulsibus* †.

It has been conjectured, that in the early ages, when the practice of physic, as well as of law, was chiefly engrossed by the clergy, that “ the procurement of a sinecure place in the church, was a method, in which the great sometimes paid the services of their physicians ‡.”

The

\* Lumina doctrinæ, Grocinus deinde secutus  
Sellingus, Linacre, Latimarufq. pius.  
Tunstallus Phœnix, Stocleius atq. Coletus.  
Lilius & Paceus festa Corona virum.  
Omnes Italiam petierunt sydere fausto  
Et nituit Latiis musa Britannia scholis.  
Omnes inq. suam Patriam rediere diferti,  
Secum Thefauros & retulere suos.

*Leland in Encom. suis illustrium Viror. edit. 1589. f. 74.*

† Ant. a Wood Hist. & Antiq. Universit. Oxon. v. i. p. 239.

‡ Aikin's Biographical Memoirs of Medicine in Great Britain. *Introd. p. 11.*



The monopoly of the profession of physic by divines was opposed and interrupted in Italy; and, about the middle of the twelfth century, the Roman council absolutely prohibited the ecclesiastics from hearing any medical lectures: yet was the subsequent decay of the colleges of Salerno and Montpellier attributed to the continuation of such a monopoly\*. It was not until a period long posterior to this, that the practice of physic was deemed, in England, incompatible with the exercise of clerical functions. In Linacre himself, in the decline of life, were united the physician and the priest.

Linacre was, perhaps, the first English physician deservedly eminent as a scholar. His writings are acknowledged to give ample evidence of great classical taste and purity. Those on medical subjects are merely translations from Galen. His original works, as well as those of most of his contemporaries, who contributed to diffuse a love for literature in England, are chiefly philological.

It was not in their time, however, that any considerable advancement was made in this country towards an improved state of philosophy. For hitherto

\* Freind Hist. Med. Oper. Omn. 4to. p. 294.



to neither had a Francis Bacon, a Locke, nor a Newton appeared, to elucidate the best principles of reasoning, to discriminate and characterize the faculties of the human mind ; and, through the medium of demonstrative science, to evince the wonderful extent of its comprehension and powers. Nor had there yet existed a Harvey to trace and illustrate the primary source of animal life and increment ; nor a Sydenham to recall to the physician's view the great advantages of clinical observation ; for which Hippocrates particularly merited that veneration, which has ever been associated with the remembrance of his name.

The physiology of the human machine must always have been explained upon principles totally conjectural, whilst its structure was so imperfectly understood : and the practice of physic could never have been the result of mature ratiocination, whilst physicians, relying on the *dogmata* of others, neglected to distinguish the *phenomena* of diseases, and directed remedies without investigating their relative fitness in the cure. Such was the state of physic in England when Henry VIII. succeeded to his father's crown.

“ The practice of physic,” Dr. Freind observed,  
 “ was, at that time, mostly engrossed by illiterate  
 “ monks



“ monks and empiricks, who in an infamous  
 “ manner imposed upon the publick\*.” There  
 must have been some physicians, however, at  
 that period, who merited a better description.  
 For it was appointed by an act of the third of  
 Henry VIII. that four doctors of physick should be  
 called by the Bishop of London, or Dean of St.  
 Paul’s, at their examination of persons practising  
 as physicians in London, and its vicinity; and if  
 they had been all empiricks and illiterate monks,  
 all impostors, not any could have been eligible to  
 so serious a trust.

This act of the third of Henry VIII. was the  
 first ever issued in England for regulating prac-  
 titioners of physick †. It is entitled “ *An act for the*  
 “ *appointing of physicians and surgeons;*” and it seems  
 to have arisen from a thorough conviction of the  
 barbarous state of our science at that time in  
 this country.

The language of acts of parliament, and of  
 letters patents, must itself invariably afford the  
 most

\* “ Humilis enim eo tempore fuit Artis nostræ conditio,  
 “ utpote ab illiteratis præcipue monachis, Empiricisque trac-  
 “ tatae, qui homines magna cum infamia decipiebant.” *Freind*  
*Hist. Med. Op. Omn.* 4to, p. 338; *Hist. of Physick in English*, v. ii.  
 p. 410.

† For the Stat. 9 K. H. v. mentioned by Sir Wm. Browne  
 in his *Vindic. of the Roy. Coll. of Phys.* &c. See Appendix p. 163.



most certain criterion of their intended purpose\*. With respect to this particular act, there is no other source from which an opinion of its object or extent can be deduced; and indeed no other is requisite: for the motives for granting it are so clearly expressed, and its intended operation so unequivocally defined, that it is impossible to misinterpret the one or the other.

“ Forasmuch as the science and cunning of  
 “ physick and surgery (to the perfect knowledge  
 “ whereof be requisite both great learning and  
 “ ripe experience) is daily within this realm ex-  
 “ ercised by a great multitude of ignorant per-  
 “ sons, of whom the greater part have no man-  
 “ ner of insight in the same, nor in any other  
 “ kind of learning: some also can no letters on  
 “ the book, so far forth, that common artificers,  
 “ as smiths, weavers, and women, boldly and ac-  
 “ customably take upon them great cures, and  
 “ things of great difficulty, in the which they partly  
 “ use forcery and witchcraft, partly apply such  
 “ medicines unto the disease as be very noious,  
 “ and nothing meet therefore, to the high dis-  
 “ pleasure of God, great infamy to the faculty,  
 “ and

\* “ Optima Statuti interpretatrix est, omnibus particulis  
 “ ejusdem inspectis, ipsum Statutum; et injustum est, nisi totâ  
 “ lege inspectâ, de una aliqua ejus particula judicare vel  
 “ respondere.” *Lord Coke’s Report of Dr. Bonham’s Case.*



“ and the grievous hurt, damage, and destruction  
 “ of many of the king’s liege people, most espe-  
 “ cially of them that cannot discern the uncun-  
 “ ning from the cunning: be it therefore (to the  
 “ surety and comfort of all manner people) by  
 “ the authority of this present parliament en-  
 “ acted, That no person within the city of Lon-  
 “ don, nor within seven miles of the same, take  
 “ upon him to exercise and occupy as a phy-  
 “ sician or surgeon, except he be first examined,  
 “ approved, and admitted by the Bishop of Lon-  
 “ don, or by the Dean of Paul’s, for the time  
 “ being, calling to him or them four doctors of  
 “ physick, and for surgery other expert persons in  
 “ that faculty, *and for the first examination such as*  
 “ *they shall think convenient, and afterward alway*  
 “ *four of them that have been so approved,* upon the  
 “ pain of forfeiture for every month that they doe  
 “ occupy as physicians or surgeons, not admitted  
 “ nor examined after the tenour of this act, of  
 “ v. li.”

“ And over this, that no person out of the said  
 “ city, and precinct of seven miles of the same,  
 “ except he have been (as is aforesaid) approved  
 “ in the same, take upon him to exercise and oc-  
 “ cupy as a physician or surgeon, in any diocess  
 “ within this realm, but if he be first examined  
 “ and approved by the bishop of the same dio-  
 “ cefs,



“ cefs, or, he being out of the diocefs, by his  
 “ vicar-general : either of them calling to them  
 “ fuch expert perfons in the faid faculties, as  
 “ their difcretion fhall think convenient, and giv-  
 “ ing their letters testimonials under their feal to  
 “ him that they fhall fo approve, upon like pain  
 “ to them that occupy contrary to this act (as is  
 “ above faid).

“ Provided alway, that this act, nor any thing  
 “ therein contained, be prejudicial to the Uni-  
 “ verfities of Oxford or Cambridge, or either  
 “ of them, or to any privileges granted to  
 “ them. *Memorand.* That furgeons be comprif-  
 “ ed in this act as phyficians, for like mischief  
 “ of ignorant perfons prefuming to exercife fur-  
 “ gery.”

There is not any thing, that can testify more  
 the extremely wretched and deplorable ftate of the  
 practice of phyfic in England, in 1511, than  
 the declaration of it in this act of parliament ;  
 there is not any thing, that can more pofitively  
 confirm, than this act does, that the only object  
 of the legiflature was to refrain the practice of  
 the rash and the ignorant ; that, “ for the furety  
 “ and comfort of all manner people,” the fkilful  
 only fhould be employed in the profeflion of  
 phyfic.

That



That the legislature never intended to diminish, by *this* act of parliament, the privileges, which were then usually granted with a doctor's degree in physic at Oxford and Cambridge, is manifest by the concluding proviso, partially excepting the graduates of those universities from its operation. Let us admit it to be an unquestionable fact, that the doctors of Oxford and Cambridge were already sufficiently accomplished, sufficiently skilled in all things pertaining to the profession of physic, and that they were therefore exempted from the necessity of subsequent probation: still does the act itself indisputably show, that all other physicians were to become, equally with them, entitled to public confidence, and as eligible to every professional duty, when they had been examined, approved, and admitted by the Bishop of London, or Dean of St. Paul's: nor was there any *stigma* of implied inferiority annexed to such an admission: the admission itself was an open avowal of competency to the most serious and important trust, that of judging of the fitness of others to be admitted to practise. For the doctors, to be called by the bishop or dean at examinations, were not specified to be the doctors of Oxford or Cambridge; but, "for the first examination, such as *the bishop or dean* should think convenient, and afterward *always* four of them that had been so approved."

Hitherto



Hitherto there had not any medical college existed in Britain. This act of parliament was the first step towards the establishment of physic, as a liberal profession, in England.

About seven years after the issuing of this act, the present College of Physicians of London was founded, by the incorporation of the physicians practising, at that period, in London and seven miles round, by a charter granted to them by Henry VIII. in the tenth year of his reign : and after an attentive view and consideration of that charter, it appears to me impossible to mistake its great object and design ; or to misconceive what description of physicians it actually comprehended, or the nature of the powers it delegated to them.

With respect to its object, the words of the charter are peculiarly explicit\*. “ As we conceive it to  
 “ be a duty of our royal office, to consult, in every  
 “ way, the happiness of the people of our empire ;  
 “ and that this will be principally effected if we  
 “ seasonably oppose the exertions of the wicked ;  
 “ we have considered it especially necessary to  
 “ curb the audacity of those presumptuous people  
 “ also, who, to the great detriment of the illite-  
 “ rate and credulous, shall practise physic, more  
 “ from

\* See Appendix (A).



“ from motives of personal avarice, than from  
 “ any impulse of a good conscience. Therefore,  
 “ partly in imitation of the example of well re-  
 “ gulated states in Italy, and in other nations ;  
 “ partly disposed from the solicitations of those  
 “ sedate and learned men, John Chambre, Thomas  
 “ Linacre, Ferdinand de Victoria, our physicians ;  
 “ Nicholas Halsewell, John Francis, and Robert  
 “ Yaxley, physicians ; and especially of our most  
 “ beloved chancellor of our kingdom of Eng-  
 “ land, &c. We will and command, that a per-  
 “ petual college be instituted of *learned and se-*  
 “ *date men*, who may publicly practise physic  
 “ in our city of London, and the suburbs within  
 “ seven miles of the city, in every direction ;  
 “ whose care it will be (as we hope) as well out  
 “ of regard to their own honour, as to public  
 “ utility, to discourage, by their own example  
 “ and authority, the ignorance and rashness of  
 “ those crafty people, whom we have alluded to,  
 “ and to punish them, both by our laws lately  
 “ made public, and by decrees to be esta-  
 “ blished by the college itself. *That these ends*  
 “ *may be more readily accomplished*, we concede to  
 “ the aforesaid John Chambre, Thomas Linacre,  
 “ Ferdinand de Victoria, our physicians ; Nicho-  
 “ las Halsewell, John Francis, and Robert Yax-  
 “ ley, physicians ; *that they themselves, and all men*  
 “ of



“ of the same faculty of and in the aforesaid city, be,  
 “ in fact and in name, one body and perpetual  
 “ commonalty, or perpetual college.”

The commonalty or college, thus incorporated, was endowed with “ the privilege of electing annually *in perpetuum*, from among themselves, one discreet and skilled in the faculty of medicine, to be president of the said college or commonalty; to supervise, regulate, and govern, for the year, the said college or commonalty and all men of the same faculty and their affairs.”

It was granted likewise, “ that the said president and college, or commonalty, should have perpetual succession, and a common seal to be always used in the transactions of the said president and commonalty; and that they and their successors might be always entitled to acquire and possess, in fee and perpetuity, land and tenements, rentals, and every other kind of possession, it was conceded to them and their successors, that they might, for themselves and their successors, acquire, as well in the city of London as elsewhere, lands and any kind of tenements, not exceeding the annual value of twelve pounds, notwithstanding the statute of mortmain: that they might sue and be sued before any judges, in any court or causes, in



“ the name of the president *of the college or common-*  
 “ *alty of the faculty of physick in London:* that the pre-  
 “ sident and college, or commonalty, and their  
 “ successors might, with impunity and free from  
 “ every kind of molestation, as often and when-  
 “ ever it might be necessary, hold lawful assem-  
 “ blies among themselves, and make statutes and  
 “ rules for the *wholesome* government, supervising  
 “ and correction of the said college or common-  
 “ alty, and of all men exercising the same faculty  
 “ in the said city, and within seven miles round  
 “ the same.

It was likewise granted to the said president  
 and college or commonalty and to their succes-  
 sors, “ that *no one* should exercise the said facul-  
 “ ty in the said city or seven miles round it, un-  
 “ less *admitted to this privilege* by the said pre-  
 “ sident and commonalty, or their successors for  
 “ the time being, by letters of the president and  
 “ college given under their common seal; upon  
 “ pain of forfeiture of five pounds for every  
 “ month that any one should continue to practise  
 “ unadmitted.

It was further conceded to the president and  
 college of the said commonalty, for the time be-  
 ing, and to their successors for ever, “ that they  
 “ should elect annually four, who should have  
 “ the



“ the supervising, examination, correction, and  
 “ government of all the physicians of the said  
 “ city, and of all other physicians whatsoever  
 “ not of the city, who should practise, or in any  
 “ manner exercise the faculty of physic within the  
 “ city and suburbs, or within seven miles round  
 “ the city : and the power of punishing the said  
 “ physicians for their delinquencies in unskilfully  
 “ pursuing, using, and exercising that faculty :  
 “ likewise the superintendence and examination  
 “ of all sorts of medicines, and of the prescrip-  
 “ tions for them of the said physicians, and of  
 “ every such physician, for the purpose of adminis-  
 “ tering, applying, and using them, to cure and  
 “ heal the diseases of the king’s liege subjects.”  
 That superintendence and examination was al-  
 lowed “ as often, and whenever it might be neces-  
 “ sary for *the public advantage and benefit* : so that  
 “ the punishment of physicians of this sort exer-  
 “ cising the faculty of physic, and that of delin-  
 “ quents in what has been premised, be executed  
 “ by fines, amerciaments, and personal imprison-  
 “ ment, and in other reasonable and consistent  
 “ ways.

“ The president, and every individual of the  
 “ college, their successors and every one of them  
 “ practising physic in any way for the future, in  
 “ London and its suburbs, or any where else,  
 “ were to be exempted, for the time to come,



“ from being summoned to any assizes, or to  
 “ serve upon any juries, inquests, &c. within  
 “ London and its vicinity.”

There was, finally, a proviso, “ that neither the  
 “ charter, nor any thing contained in it, should  
 “ operate to the prejudice of the city of London,  
 “ or of its liberties.”

Thus far the original charter, which, in about four years afterwards, (in 1522 or 1523) was confirmed in every particular, and additional grants were conceded to the established college, by the statute of the fourteenth and fifteenth of Henry VIII. entitled “ *The privileges and authority of physicians in London.*”

This statute, as well as the charter, was obtained by the application of the six physicians named in the charter and *of all other men of the same faculty* within the city of London and seven miles round\*; and it states to the crown: “ Forasmuch that  
 “ the making of the said corporation is meritori-  
 “ ous and very good for the common-wealth of  
 “ this your realme, it is therefore expedient and  
 “ necessarie to provide, that noe person of the said  
 “ polityke body and comonaltie aforesaid bee  
 “ suffered

\* Formerly, all bills were drawn in the form of petitions, which were entered upon the *Parliament Rolls* with the king's answer thereunto subjoined. *Blackstone's Comment.* v. i. p. 182.



“ suffered to exercise and practyse phyfick, but  
 “ oonly these persons that be *profound, sad, and*  
 “ *discreete, groundly learned, and deeply studied in*  
 “ *phyfike.*

“ In consideration whereof, and for the fur-  
 “ ther authoriseing of the same letters patents,  
 “ and alsoe enlargeing of further articles for  
 “ the said comon-wealth to be had and made;  
 “ pleaseth it your highnes, with the assent of  
 “ your lords spiritual and temporal and the com-  
 “ ons, in this present parliament assembled, to  
 “ enact, ordeyne, and establissh, that the said cor-  
 “ poration of the said comonaltie and fellowshipp  
 “ of the facultie of phyfike aforesaid and all and  
 “ every graunt, articles, and other thing conteyned  
 “ and specified in the said letters patents, bee ap-  
 “ proved, granted, ratified, and confirmed in this  
 “ present parliament, and cleerely authorised and  
 “ admitted by the same, good, lawfull, and avayle-  
 “ able to your said bodie corporate, and their suc-  
 “ cessors for ever, in as ample and large manner  
 “ as may be taken, thought, and construed by  
 “ the same: and that it please your highnes,  
 “ with the assent of your said lords spiritual and  
 “ temporall and the commons, in this your pre-  
 “ sent parliament assembled, furtherlie to enact,  
 “ ordeyne, and stablishe, that the *sixe persons* before-  
 “ said in your said most gracious letters patents  
 “ named



“ named as principalles, and first named of the said  
 “ comonaltie and fellowship, chosyng to them  
 “ *twoo moo* of the said comonaltie, from hence-  
 “ forward be called and clepyd *electys*: and that  
 “ the same electys, yearly, chose one of them to  
 “ bee president of the said comonalty, and as  
 “ oft as any of the rowmes and places of the  
 “ same electys shall fortune to be voyd, by death  
 “ or otherwise, then the survivours of the said  
 “ electys, within thirtie or fortie dayes next after  
 “ the death of them, or any of them, shall chose,  
 “ name, and admitt one or moo, as need shall re-  
 “ quire, of the most cunyng and expert men, of  
 “ and in the said facultie in London, to supply the  
 “ said roome and number of eight persons; so  
 “ that hee or they, that shall be so chosen, bee first  
 “ by the said supervisors straitly examined after a  
 “ forme devised by the said electys, and also by  
 “ the same supervisors approved.

“ And where that in dyocesys of England, out  
 “ of London, it is not light to fynde alway men  
 “ hable to sufficiantly examyne after the statute  
 “ such as shall be admitted to exercise phyfyke in  
 “ them, that it may be enacted in this present par-  
 “ liament, that noo person from henceforth be suf-  
 “ fered to exercyse or practyse in phyfyke through  
 “ England, untill such time that he bee examined  
 “ at London, by the said president and three of  
 “ the



“ the said electys; and to have from the said  
 “ president or electys letters testimonials of their  
 “ approveing and examination, *except he be a*  
 “ *graduat of Oxford or Cantebrygge*, which hath ac-  
 “ complished all thing for his fourme, without  
 “ any grace.”

The charter and this subsequent statute are the fundamental sources of all the privileges and authority of the college of physicians in London. The language of both is so perspicuous and determinate, that it cannot be misunderstood: nor can two opinions be formed, either of what were the motives for establishing the college originally; or of the description of persons who were intended to constitute the college or commonalty; or of the nature of their appointed government; or of the extent of the power conceded to them of making statutes or by-laws; or of the exemptions with which they were accommodated.

Much mischief had arisen in the kingdom, from the ignorance, temerity, and avarice of a multitude of daring pretenders to medical science; and the sole object of the crown and parliament was to correct that mischief for the general good of the people. They conceived the best way to accomplish that object was to incorporate those physicians, who had already given proof of their abilities,



abilities, the *homines docti & graves*, and to invest them with the power of judging of the competency and fitness of others; that the incompetent might be restrained from practising, or punished for their delinquencies; and that the privilege of prescribing remedies might be confined to men of approved skill.

The act of the third of Henry VIII. “*for the appointing of physicians and surgeons*,” was, in effect as far as pertained to physicians, repealed by the charter: and therefore the privilege exercised, in right of that act, by the Bishop of London and Dean of St. Paul’s of examining and licensing physicians to practise in London and its vicinity was, by the charter, vested solely in the College of Physicians. By the subsequent statute of the fourteenth and fifteenth of Henry VIII. the like privilege of licensing physicians, in the dioceses of England out of London, was transferred from the provincial bishops and their vicars general, to the president and three of the elects of the college of London. The provincial bishops, however, continued freely to grant licenses, notwithstanding this statute, for more than one hundred and fifty years afterwards. But, in 1687-8, a circular letter was sent from the college to every bishop, in his respective diocese, to remind him, “That by a statute made the fourteenth and  
“fifteenth



“ fifteenth of Hen. VIII. chap. v. the power of  
 “ examining fuch perfons as take upon them to  
 “ praftife phyfick, which was given by the ftatute  
 “ of the third of Henry VIII. chap. ii. to the  
 “ bifhops in their refpective dioceffes, or in cafe  
 “ of their abfence, to their vicars general, is tranf-  
 “ ferred to the prefident and three of the elects,  
 “ of the College of Phyficians; who are to ex-  
 “ amine the faid perfons at London, and to give  
 “ them letters testimonial of their approving and  
 “ examination of them, before they could be  
 “ licenfed by the bifhopps, or their vicars gene-  
 “ ral, to the praftice of phyfick, &c.”

Thus was the paramount authority and govern-  
 ment of the College of Phyficians of London,  
 eftablifhed through England in 1522. It is pro-  
 bable, that the annual election of four cenfors,  
 enacted by the charter, was derived from the  
 ufage that had been ordained, by the prior act of  
 parliament, of calling four approved phyficians to  
 affift the Bifhop of London, or Dean of St. Paul’s,  
 at their examinations.

In the four cenfors was repofed, as mentioned  
 in the detail of the charter, the trust “ of super-  
 “ vifing, examining, correcting, and governing  
 “ all the phyficians of the faid city and all other  
 “ phyficians whatfoever not of the faid city, who  
 “ fhould



“ should practise, or in any manner exercise the  
 “ faculty of physic, within the city and suburbs,  
 “ or within seven miles round the city ; and the  
 “ power of punishing the said physicians for their  
 “ delinquencies, in unskilfully pursuing, using,  
 “ and exercising that faculty.” But the president  
 was vested with authority “ to supervise, regulate,  
 “ and govern the college, or commonalty, and all  
 “ men of the same faculty and their affairs.”

The president and four censors for the time being, therefore, are the only persons of the college, who are legally invested with powers of magistracy: they are the only legal agents in the government of the general affairs of the faculty of physic in England: for they only are specified as agents for directing the means and accomplishing the end, for which the college was originally founded. But that end is as specifically defined in the charter, as the appointment of such agents is explicitly described; and, therefore, it cannot be capriciously changed nor varied: and the means by which it was to be effected are as obviously expressed.

There cannot be any conclusion more evident, than that the sole end of the establishment of a medical college, by charter, was to suppress empiricism and the practice of those,  
 who



who were incompetent to the test of medical skill: and this merely out of consideration for the public safety and welfare. The prescribed means are compatible with such an intention alone; for, as decisively as words can decide intention, the charter, after declaring its object, dictates as the first mean to accomplish it, the restraining of those audacious, ignorant, and rash mediceasters, who pursue the profession of physic, to the great injury of the illiterate and credulous multitude, more from the motive of avarice, than from the conscientious design of doing good.

To punish such people for their delinquencies, in unskilfully practising physic, there were certain existing laws of the land to be enforced, to co-operate with the statutes, or by-laws, to be framed by the college themselves, peculiarly for that purpose and to compel practitioners, within their jurisdiction, to appear before the president and censors for legal admission. But, in strict consistency with its general view, in order to prevent any arbitrary and undue exercise of power in the members of the college, the charter qualifies the very privilege it grants to the college of making by-laws, by an expression of restraint as to their object and end; *pro salubri gubernatione, &c.* That is, for the *whole-*  
*some*



*some* government, supervising, and correction of the said college or commonalty, and of all men exercising the same faculty in London, and seven miles round.

In 1682 a question was put to several counsellors, by the college, respecting the necessity there might be to obtain the lord chancellor's approbation and confirmation of the statutes, or by-laws of the college, according to the statute of the nineteenth of Henry VII. ; and Mr. Blackerby's opinion was, " that he conceived there was  
 " not any, for that the power the college hath to  
 " make by-laws, *is given them by act of parliament;*  
 " and if the by-laws themselves be made *with*  
 " *reasonable penalties, and not against law,* they are  
 " good in themselves, and need no confirmation."

How far the magisterial conduct of the college has corresponded with these fundamental principles of the existence of their authority can only be ascertained, by considering the nature and extent of the power, which has been, from time to time, delegated by the college to their *magistri & gubernatores*, their president and censors : and by investigating their by-laws, it may be readily discovered, whether, as private legislators, they have exceeded the limits of royal and parliamentary concession.

The



The only statutes of the college that have been made public, were published in 1693\*, and in 1765, except the *statuta moralia*, which were published in 1722. There were some alterations of the printed statutes of 1765 *proposed* by a committee of the college, and printed without a date: but, by the tenour of some of them, they appear to have been printed about 1768 †. Both those of 1693 and of 1765 pertain to the choice and duty of officers, and to the regulation and government of the college and its affairs. They are professed to have been made by virtue of the right conceded to the college by the charter of king Henry VIII. sanctioned by the decrees of parliament.

As the latter copy of these college statutes are of a date nearly two centuries and a half subsequent to the foundation of the college, it is but reasonable to suppose that they might be, and that consistently with the letter and spirit of the charter, very considerably different, in some respects, from the statutes that were found necessary at an early period of the institution: for the circumstances of physic have altered very materially since the college was first established. The same observation will, in some degree, apply to the statutes published in 1693. But if it appear, from

\* These had, probably, been published before in 1653 and 1663. (See Mr. Gough's *Brit. Topog.* v. 1. p. 650.)

† See Note, p. viii. of Prefatory Address,



from investigating their statutes, that the college of London, in proportion as the science of physic has been more generally cultivated and better understood, have uniformly contributed to damp the ardour for medical improvement in England, by gradual encroachments upon the only legal road to professional honours, the most direct to professional reward, they may be fairly suspected of having lost sight of *the spirit* of their charter, at least: and not any one can doubt but they have acted in diametrical opposition to its *letter* also, if it can be proved, from those very statutes, that they have as gradually perverted the intention of their charter, by an arbitrary imposition of undue restraint upon many, whom that was granted to protect and encourage; and by a supine and negligent toleration of others, whom alone it was designed to stigmatize and repress.

The earliest statutes that I have been able to procure, in manuscript, are some few, said to have been made in July 1607. I have read likewise, in manuscript, *Statuta Collegii Medicorum Londinensium*, dated 1647; and some few others, called *statuta nova*, said to have been made in 1647 likewise, and confirmed in 1687. These are the statutes that were published in 1693. I have read another copy, in manuscript, said to have been enacted in 1736; and another of the date of 1752.

The



The first of these, which include the statutes pertaining to the election and duty of officers, &c. are the statutes of 1647. In those, and in all the subsequent copies, prior to the printed copy of 1765, the office of the president and censors is expressed in nearly the very same words.

The office of the president was,\* “ to appoint  
 “ the *comitia*, or meetings, according to the  
 “ statutes for that purpose; to declare the busi-  
 “ ness of the meetings; to take the opinions  
 “ of every one present, and to decide by the  
 “ majority: to exclude parties and factions: to  
 “ choose with the rest, whose business it is, the  
 “ elects, the *council*, and the censors of letters, of  
 “ morals, and of medicines. In choosing mem-  
 “ bers, he was first of all to receive the suffrages  
 “ of others, and then to give his own, and to de-  
 “ cide by the majority: he was to settle diffe-  
 “ rences among the members; but with the com-  
 “ mon advice and approbation of the elects and  
 “ censors, separately declared, in the way expres-  
 “ sed, *in capite de conciliariis*: he was to take care  
 “ that the common seal was safely deposited and  
 “ preserved: to sign all the decrees to which the  
 “ rest of the members, according to their duty,  
 “ and the statutes, had consented. If any books  
 “ were

\* See Appendix, B.



“ were presented to the college, it was to be his  
 “ care that they were deposited in the library;  
 “ and, at the end of his year of presidency, to ac-  
 “ count for them to the new president, pointing  
 “ them out nominally by an index. He was to  
 “ see that all rentals, or annual returns from the  
 “ college estates, all gifts to the college, or  
 “ other accessions, were preserved in the common  
 “ chest, of which he was to possess one key, and  
 “ each of the council another \*. He was to de-  
 “ mand from the treasurer, and from the other of-  
 “ ficers, an account of receipts and disbursements  
 “ for the year, in the presence of the rest of the  
 “ elects at that time in town; all of whom were to  
 “ be summoned to be present at adjusting the ac-  
 “ counts, if convenient to them. He was espe-  
 “ cially to see that the statutes were diligently  
 “ observed, and that they were read in the col-  
 “ lege in the way prescribed in the statute for  
 “ that purpose, either by himself, by the register,  
 “ or by some other person.”

There is no very essential difference in this de-  
 tail of the office of the president, and that which  
 is published in the statutes of 1765. But in the  
 language of the latter, however, the distinction

\* In the copy of 1736—1752, and in the printed copy of  
 1765, keys were allowed to the president, treasurer, register,  
 and senior censor.



of fellow and licentiate is particularly recognised; for instead of the president having to choose with the rest, whose business it is, the elects, council, and censors; the expression is, to “choose the  
 “elects, the censors, the officers, and the *collegæ*,  
 “and likewise those who are to be *admitted* to  
 “practise\*.”

The president was by the prior statutes, and is by the statute published in the copy of 1765†,  
 “To pledge himself, that he will, to the utmost  
 “of his power, endeavour that the honour of the  
 “college shall be maintained; that its statutes  
 “shall be observed without fraud; and that he  
 “will act in all things *for the public good*, and for  
 “the *fair* advantage of the college.”

This description of the president's office is the just description of his delegated power. If, therefore, the decrees established by the college prior to his appointment, and those assented to by the rest of the members, during his presidency, and which he signs, and pledges himself to see observed, be not contrary to the purposes of the charter;

\* *Electos, censores, officarios, & collegas, nec non ad medicinæ facultatem exercendam per collegium admittendos cum ceteris, quorum ea res intererit, eligat. P. 6, 7.*

† See Appendix, B.



charter; then is there no position in the description of his office, that can be cavilled with as unwise, unreasonable, or improper.

The office of the censors, as enacted in all the statutes prior to those of 1765, was, “\*to obtain a  
 “ knowledge of all practitioners of medicine in  
 “ London and seven miles round, whether natives or foreigners: to examine, correct, and  
 “ govern them; and if necessary, together with  
 “ the president and treasurer, to prosecute them  
 “ at law: to inquire into their methods of cure,  
 “ and strictly to investigate their medicines: to  
 “ examine the shops of apothecaries to judge of  
 “ their drugs and to destroy those, that they might  
 “ find unfit for use. *They were to swear*, before  
 “ the president, that they would not adjudge any  
 “ one to be admissible into the college, whom,  
 “ all partiality apart, they did not find proper  
 “ both in learning and morals: and that they  
 “ would not from reward, entreaty, or favour  
 “ approve any man or any medicine.”

The printed statute of 1765, although in different words, is to the same effect. By that\*, “besides the supervising, examination, correction,  
 “ and government, of all the physicians of the  
 “ city of London; and besides the other duties

\* See Appendix, C.



“ ties imposed upon them by the king and par-  
 “ liament;” the office of the cenfors is, “ to ad-  
 “ monish, together with the president or vice  
 “ president, as they may think proper, all those,  
 “ who practise physic in London and seven  
 “ miles round, unadmitted to the privilege by  
 “ letters of the president and college, under  
 “ their common seal; and, together with the  
 “ president and treasurer, to prosecute them at  
 “ law, if there should be occasion; likewise to  
 “ examine those, *who desire* to be admitted into  
 “ the order of candidates, or among the number  
 “ of licentiates. *They are to swear*, before the pre-  
 “ sident, that they will discharge their office  
 “ faithfully.”

There appears nothing unwarrantable in this  
 delegation to the cenfors, any more than in that  
 to the president. But if the described office and  
 powers of the president and cenfors, who are the  
 only agents of the college legally appointed, be  
 strictly in conformity with the declared views of  
 the college charter: and if abuses have, neverthe-  
 less, crept into usage, which are repugnant both  
 to the spirit and letter of that charter, then must  
 they, undoubtedly, have originated in the statutes  
 or by-laws themselves, and their source, upon in-  
 vestigation, will become evident.



The most material abuse in the government of the College of Physicians, the most unjustifiable in itself, and the most detrimental to society, is the monopoly of that government by the graduates of Oxford and Cambridge. By this, there have been many physicians excluded from a participation in directing the medical affairs of England, who have been as well qualified for it as any other men whatsoever, since they have been as accomplished in every branch of education, which is connected either with medical learning, or with general science: many who have been willing to subject themselves to the proof of this, by submitting to any test of abilities, acquirements, or morals, that is ever given at the College of Physicians, by the graduates of Oxford and Cambridge; who, without limitation, are admitted into the order of candidates, as a progressive step to the fellowship of the college.

This exclusion is arbitrary, and it has operated in a great degree to retard the progress of medical improvement, as it has manifestly contributed to the toleration and advancement of a barbarous and mischievous spirit of empiricism.

It has been suggested, indeed, that not any other, than the six physicians named as applicants for the charter, were originally incorporated by it. In



1767, a rule was moved for in the court of King's Bench, to compel the four censors to show by what authority they acted as censors of the College of Physicians, as they had not been elected by the whole body, but by a select body only.—In giving his opinion upon this application, Mr. Justice Yates observed, “ I am far from thinking, that all the men of and in London, then practising physic, were incorporated by the charter. The immediate *grantees* under the charter were the six persons particularly named in it: the rest were to be admitted by them. They were not *ipso facto* made members. They were first to give their *consent*, before they became members: they could not be incorporated without their *consent*. Much less are future practisers of physic, of and in London, actually incorporated by this charter \*,”

This opinion of Mr. Justice Yates, does not, however, militate against the eligibility of every approved physician to be admitted into the corporation; but merely asserts the law to be against compelling any man to subject himself to the duties of a corporation, which are often expensive, troublesome and inconvenient; for he goes on to state, “ If the inhabitants of a town are incorporated, yet every one must be admitted before  
“ he

\* Rex v. Dr. Askew, & al'. *Bur. Rep. vol. iv. p. 2199.*



“ he becomes a corporator. The crown can’t  
 “ oblige a man to be a corporator without his  
 “ *consent* ; he shall not be subjected to the incon-  
 “ veniences of it, without *accepting* it and *assent-*  
 “ *ing* to it \*.”

By parity of reasoning, if every man possessed of all the qualifications required by a charter be eligible to become a corporator, he cannot, legally, be denied the right, if he will assent to the conditions and subject himself to the inconveniences : and what man would refuse this, in a corporation where every possible inconvenience is accompanied and recompensed by a ten fold advantage ?

The College of Physicians was incorporated to promote the general good of mankind, by giving decisive advantages and professional authority, to meritorious practitioners. Admission into it was the characteristic type of distinction between the physician and the empiric ; the criterion by which the public were to judge of the fittest objects of their confidence ; and of the best source of safety and relief under the oppression of disease. Several of the offices of the corporation are not less honourable than lucrative. They are such as are looked forward to with solicitude, rather than with apprehension of inconvenience.

With

\* Rex v. Dr. Askew, & al'. *Bur. Rep.* p. 2200.



With deference to the opinion of Mr. Justice Yates, it may be observed, that seven years had intervened between the date of the act, which enforced the probationary examination before the Bishop of London, or Dean of St. Paul's, and four approved physicians, and the date of the charter of incorporation. It is surely no unreasonable supposition, therefore, that there had been more than the six physicians particularly named in the charter, as the immediate grantees under it, admitted to legitimate practice during those seven years, by the bishop and dean: and if in reality there had been, as by the act itself they were legally qualified for examining others, it would be unwarrantable to consider them ineligible to be incorporated, for that purpose, when the charter was granted.

Had Mr. Justice Yates sufficiently considered this circumstance, had he paid attention to the words of the charter itself, I am persuaded that he would not have hazarded so solitary an opinion; an opinion so incompatible with fair and sound deduction, as that of there having been but six original members of the College of Physicians.

The charter says, “ *Memoratis doctōribus concessimus quod ipsi omnesque homines ejusdem facultatis,*



“ *tatis, de & in civitate prædicta sint in re & nomine*  
 “ *unum corpus & communitas perpetua sive collegium*  
 “ *perpetuum.*” What then are we to understand  
 by the words “ *omnesque homines ejusdem facul-*  
 “ *tatis?*” Consistently with *the act for the ap-*  
*pointing of physicians and surgeons*, it is impossible to  
 conclude otherwise, than that every one must have  
 been considered *ejusdem facultatis*, who had been  
 examined, approved, and admitted, as a physician  
 by the Bishop of London, or Dean of St. Paul’s.  
 All such and all the graduates of Oxford and  
 Cambridge, at that time practising physic in Lon-  
 don and seven miles round, who, by the proviso  
*in that act*, were implied to be already competent,  
 without further examination, must have been  
*ipso facto* incorporated with the six nominated ap-  
 plicants for the charter; or the words *omnesque*  
*homines, &c.* strong and expressive as they are,  
 could have had no meaning, and therefore must  
 have been equally absurd and superfluous. But  
 it is not credible that words capable of so im-  
 portant a construction would have been made  
 use of, in any charter, without a reference to re-  
 lative objects.

“ In grants of this kind,” (said Mr. Justice  
 Aston speaking of this charter in 1768) “ the con-  
 “ struction ought to be made in a *liberal* manner;  
 “ and this grant includes *omnes homines ejusdem fa-*  
 “ *cultatis*



“ *cultatis de & in civitate predicta*\*.” The reasonableness of this opinion is a confirmation of its truth. If it be true, then, in liberal construction, must all men have been considered *ejusdem facultatis*, who had been examined, approved, and admitted, as *homines satis docti & graves*, for the full exercise of the medical function as physicians, whether their testimonials had been given under the hand of the Bishop of London, or Dean of St. Paul’s, or under the seal of the University of Oxford or Cambridge; and all those must, certainly, be allowed to have been *ejusdem facultatis*, who were admitted by the college, from the time the charter was granted to the period of application for confirming it, by the statute of the fourteenth and fifteenth of Henry VIII.

But the applicants for that statute are declared to have been the six physicians, who petitioned for the charter, and *all other men of the same faculty* within the city of London and seven miles round. It is manifest, therefore, that to confine the right of admission, to the graduates of Oxford and Cambridge alone, is an abuse of the authority granted to the College of Physicians by their charter and the subsequent statute. For foreign graduates, merely as foreign graduates, were

\* Rex v. Dr. Askew, & al’. *Bur. Rep. vol. iv, p. 2201.*



were not ineligible to be of the faculty of physic within London and its suburbs, and consequently they could not have been denied, upon that principle, a legitimate right of admission into the college, as members of the commonalty at the time the charter was enacted. The law never supposes a distinction not expressed: and there is not any evidence in the charter of any intended distinction, among the *docti & graves viri*, who were to be admitted into the college as members of it, on account of any diversity in the schools where they studied, or in the universities where they graduated. The instances of Doctors Chambre, Linacre, and de Victoria, who were all foreign graduates, are, certainly, insuperable proofs that no such exclusive deference, as could lead to a monopoly of power in the College of Physicians, was ever intended to be paid by the king and parliament, to the graduates of Oxford and Cambridge.

It was a position laid down by the court, in the case of Dr. West, the fourth of George I. that,  
 “ As to the testimonials granted by the universi-  
 “ ties, upon a person taking the doctor’s degree,  
 “ these testimonials might have the nature of a  
 “ recommendation; they might give a man a fair  
 “ reputation, but conferred no right: and conse-  
 “ quently all those statutes, which have confirmed  
 “ the



“ the privileges of the universities, could re-  
 “ vive or confirm nothing but the reputation  
 “ that this testimonial might give such gradu-  
 “ ates \*.”

There is not any narrow view of exclusive preference discernible in the original charter of the college. There is not any proviso in it, as there was in the prior act, “ *For the appointing of physicians and surgeons,*” in favour of the universities of Oxford and Cambridge. The jurisdiction of the college is determined by it to extend, throughout the city of London and seven miles round: and the graduates of the Universities of Oxford and Cambridge, coming to practise within these limits, were to be, as were all other physicians, subject to the controul of the college of London.

The exception respecting the graduates of those universities, which concludes the subsequent statute of 1522 (the fourteenth and fifteenth of Henry VIII.) renders it manifest, that it was never intended to exempt them from the jurisdiction of the college, whenever they should come to practise in London, or within seven miles of it: nor to grant them, partially, any other privilege, than to practise any where in England, beyond

\* Lucas's Rep. 10th vol. Mod. Rep. 353.



yond that specified district, without being liable to the controul of the college.

In the last year of the reign of Queen Elizabeth, 1602, Sir John Popham, then Lord Chief Justice of England, gave it as his opinion, “ That  
 “ *no man*, though never so learned a physician or  
 “ doctour, may practise in London, or within seven  
 “ miles, *without the college licence* \*.” Indeed, ten years antecedent to this, a recommendatory letter was written by Lord Treasurer Burghley, to Dr. Baronisdale, requesting the privilege of practising in London *without licence*, in favour of Dr. Butler, then professor of physick in the University of Cambridge, whenever he might go thither on private business, or was sent for by any patient; and the privilege was granted him by the college, conditionally, that he would submit to the customary examinations of the college, and pay the usual fees, provided he should come to live in London †.

In 1607, by order of James I. the lord chancellor and judges assembled, “ To examine,  
 “ view, and consider of the charters, statutes and  
 “ laws, made for the government of the College  
 “ of Physicians in London, and the practisers  
 “ of

\* Goodall's Royal Coll. of Phys. &c. p. 345.

† Ibid. p. 335, 336.



“ of physick there ;” and they all resolved, that  
 “ no graduate of Oxford, or of Cambridge, that  
 “ is not admitted and *licenced* by the president  
 “ and College of Physicians, under their common  
 “ seal, could practise in London, or within seven  
 “ miles compass of the same : and that, by the  
 “ exception in the statute of the fourteenth of  
 “ Henry VIII. those graduates may practise in all  
 “ other places of England, out of London and  
 “ seven miles of the same, *without examination*, but  
 “ not in London, nor within the said circuit of  
 “ seven miles \*.” Sir Francis Pemberton in 1680,  
 and in 1682, Mr. Saunders, Mr. Pollixfen, and Mr.  
 Holt, gave a similar opinion. Its validity indeed  
 had been fully established by the decision in Dr.  
 Bonham’s case, tried before Lord Chief Justice  
 Coke, &c. the seventh of James I. The judges on  
 that occasion said, “ The statute of the third of  
 “ Henry VIII. chap. 2. which, in effect, is repealed  
 “ by this act of the fourteenth of Henry VIII. hath  
 “ a special proviso for the University of Cam-  
 “ bridge and Oxford, which being here left out,  
 “ doth declare the intention of the makers of the  
 “ act, that they did intend to include them within  
 “ the general prohibition, *Nemo in dicta civitate*,  
 “ &c. ; and that the clause, where that in the  
 “ dioceses of England, out of London, &c. ac-  
 “ cording to the words, doth extend only to  
 “ places

\* Goodall’s Royal Coll. of Phys. &c. p. 277.



“ places out of London, and so much the rather,  
 “ because that they purview for London before,  
 “ *Nemo in dicta civitate, &c.*” Their opinion  
 was, that “ *nemo* excludeth all, and therefore a  
 “ doctor of the one university or the other, is  
 “ prohibited within this negative word *nemo* \*.”  
 That is, as already explained, that *no one* should  
 exercise the said faculty in the said city, or seven  
 miles round, unless admitted to the privilege by the  
 said president and commonalty, or their successors  
 for the time being, by letters of the president and  
 college, given under their common seal. Similar  
 decisions were made in the case of Dr. Levet,  
 the thirteenth of William III. †, and in that of Dr.  
 West in the fourth of George I. ‡.

There is not any mention made but of one  
 source of admission into the college, either  
 in the charter, or in the subsequent statute of  
 the fourteenth and fifteenth of Henry VIII.  
 and it is that, which is referred to in the clause  
 above stated; namely, by letters of the pre-  
 sident and college, given under their common  
 seal. Admission to practise in London, and  
 seven miles round, was in fact intended to be an  
 admission into the commonalty of the college.  
 There

\* Lord Coke's Reports, in fol. p. 586. 8vo. pt. viii. p. 116.

† Lord Raymond's Rep. v. i. p. 472.

‡ Lucas's Rep. 10th vol. Mod. Rep. 353.



There was no other way pointed out, by which the succession of members was to be continued, and the perpetuity of the college maintained. In 1768, Mr. Justice Aston said, “ It seemed to  
 “ him the idea was, that all persons duly quali-  
 “ fied, who took testimonials under the college  
 “ seal, were to be of the community, and this  
 “ was sufficient to continue the succession, and  
 “ perpetuate it \*.”

The eligibility likewise to admission is described, both in the charter and in the subsequent statute, in terms, which it is impossible to construe, with any exclusive application to the graduates of any particular universities; for the only title to admission is expressed in the general qualifications of “ *Homines docti & graves*, or  
 “ of persons profound, sad, and discrete, ground-  
 “ ly learned, and deeply studied in phyficke.” As such qualifications cannot be ascertained without being investigated, so has examination been ever considered, and that most properly, the only practicable medium of admission to the corporate rights of the college, that is at all consistent with the ends of the institution; and as the mode of examination was never specified and enacted by the charter, nor by any act of parliament subsequent to it, so cannot any mode, which

\* Rex v. Dr. Askew, & al'. *Bur. Rep.* v. iv. p. 2201.



which operates partially, be ever admissible as valid in law.

If admission had ever been confined, by the acts of the crown and parliament, to the graduates of Oxford and Cambridge only, then is the usage of partially admitting others, who are not graduates of those universities, which, under the idea of *especial grace*, is *occasionally* adopted, decisively illegal. But as the peculiar exemption conceded, to the graduates of Oxford and Cambridge, by the act of the fourteenth and fifteenth of Henry VIII. is specified in the clearest, the most express terms, so is there no difficulty in marking its limitation, nor in discovering that admission was originally intended to be free to all physicians, wheresoever they had graduated, who possessed the rights of British subjects, and could prove themselves to be *satis docti & graves*.

The universities of England, particularly at the time when the College of Physicians was established, were, and ever have been, very inferior to many other universities, in the opportunities they have afforded for medical improvement\*.

To

\* The statutes of Oxford University, for instance, demand a diligent and attentive hearing of the public professor of medicine for one whole year, before a bachelor's degree in physic can be taken, and afterwards for three whole years, before



To have exempted the graduates of Oxford or of Cambridge, from the jurisdiction of a college established for the declared purpose of correcting abuses in the practice of physic, or to have invested them, solely, with the corporate government of that college,

before the doctor's degree can be conferred. But not any regular course of public lectures upon medicine is given in Oxford; and residence is dispensed with after the degree of master of arts has been taken, *Confer. p. 34. 54, 55. Parecb. five exerp. e corpore. Statutor. Univ. Ox.* It was the opinion of Dr. Knox, that "if the student had no other instruction, than  
 " that afforded him by the professors appointed and paid for  
 " instructing him, he might as well have gone to get learning  
 " to the land of the Hottentots, or pursued the sciences in Lap-  
 " land." *Knox's Liberal Education, v. ii. p. 230.*

In every thing, however, which I advance, concerning the universities of England, I disclaim any intention of depreciating their genuine importance as schools for general science. All I contend for is, that they are not the only universities, where every thing that is known of science can be learnt, and that, as schools of physic, they are even still very inferior to many. It is asserted, that a professor in one of the universities of England could not procure books, in the university, necessary for preparing such a course of lectures, as he wished to deliver upon a branch of knowledge essentially connected with the science of physic; and that he went to *Gottingen* for the purpose. If it be true, in fact, that the University libraries could not have furnished him; I know that it does not follow, as a consequence, that not any in *Britain* could. Be that as it may, still it may be questioned (*with reference to the science of physic*) "In what does the peculiar advantage of studying in the  
 " *English universities* consist? Point out the benefits, which  
 " might not be derived from other quarters, enjoyed in other  
 " places, and with less inconvenience, less expence, and more  
 " beneficial effects, both to individuals and to the community."  
*Knox's Liber. Educ. v. ii. p. 178.*



college, would, inevitably in the end, have perverted the very object in view.

If such an idea had been suggested, it must have been perceived that an institution intended for the permanent benefit of mankind, would ultimately become, under such circumstances, the mere medium of the partial aggrandizement of the graduates of particular universities. Such an idea would have been alike incompatible with the professed design of the charter, and repugnant to every principle of national policy and of public good.

Independently of this, it would be extremely absurd to suppose, that such men as Doctors Chambre, Linacre, and de Victoria should have been most actively instrumental in procuring letters patents for incorporating a college, which was to be vested with paramount authority in physic, and that they should have left implicated, in any clause, the exclusive privilege of medical government in the graduates of universities, which they themselves found inefficient in their own education.

They were all physicians to the king, and graduates of foreign universities.—The first named in the charter, Dr. John Chambre, graduated at Padua, and was not incorporated at Oxford until



until 1531 \*, twelve years after the date of the patent itself: Dr. Ferdinand de Victoria was a foreign physician, and was not incorporated at Oxford until 1520 †, more than a year after the charter was granted: and Linacre himself, who was, indisputably, an honour to the age in which he lived, although admitted a fellow of All Soul's College, in 1484, graduated in Italy, and was incorporated at Oxford upon his return ‡. It is an acknowledged fact, that the universities of England were incompetent to instruct him §.

Sir John Micklethwaite graduated at Padua in 1638, and, more than 120 years after the college

\* Impartial Enq. into the Legal Constit. of the Coll. of Phys. 1753, p. 91.

† Matthias Conspect. Hist. Medicor. Chronol. § 339.

‡ Wood's Athenæ Oxoniens. v. i. p. 20.

§ An fortunam Linacri miseram ac miserandam putem, eo quod domi non haberet unde disceret; an felicem eum potius prædicem, cui contigit ea foris didicisse, quæ possent & ipsum Patriæ, & Patriam terrarum orbi commendare; cui contigit quicquid Florentia, quicquid Roma literarum aluit (fuit autem tum temporis Italia Græcarum Artium plenissima) in Academiæ suæ sinum secum deportare, & inter suos auctiora atque uberiora depromere Transalpinæ eruditionis miracula? *Sir G. Baker's Harveian Oration*, 1761, p. 5.

Qui, cum domi non habuerit unde disceret, in Italiam, humanitatis et elegantiae tunc temporis domicilium, migravit; ubi ex Politiano facundiam, ex Demetrio Græcam linguam, ex Hermolao didicit philosophiam. *Dr. Warren's Oration*, 1769, p. 3.



lege had been established, was admitted a fellow, five years prior to his incorporation at Oxford\*: and Harvey and Mead, two of the three only physicians, whose superior merits have hitherto procured for their busts a place in the college, graduated likewise at Padua; the third, the immortal Sydenham, dissatisfied with the opportunities of improvement afforded him at Oxford, studied at Montpelier†: and he was never a fellow of the college, but merely a licentiate.

As then no rational pretence could be urged, at the time it was founded, for the concession of partial prerogative in the College of Physicians to the doctors of Oxford and Cambridge; and as, since the establishment, the absurdity of such distinction has many times been manifested by the superior merits of physicians, who graduated, or acquired their knowledge in other universities, so is the inference clear, that the crown and parliament, consistently with their professed object of public good, could never have intended to grant, by any charter, so vast and enormous a preference to the graduates of Oxford and Cambridge,

\* He graduated at Padua 1638; was a candidate of the college 1642; a fellow the year after, and was incorporated at Oxford, 1648. *Impart. Enq. into the Legal Const. of the Coll. of Phys.* p. 96. *From Wood's Fasti*, v. ii.

† Swan's Life of Sydenham, from Default's Dissertation on Consumption.



bridge, as the right, which they now assume, of excluding all others from the privileges of the established corporation.

That by the charter, and subsequent act of Henry VIII. the unequivocal right of admission is secured to all reputable physicians of competent learning and professional skill, who are entitled to the privileges of British subjects, is then undeniably demonstrated: and there is not any thing repugnant to this assertion in any act, pertaining to the college, made subsequently to the statute of the fourteenth and fifteenth of Henry VIII.

The next to this, which relates to the College of Physicians, is the statute of the thirty-second of Henry VIII. \* chap. 40. entitled "*For physicians and their privileges.*" By this statute, was conceded to the president of the commonalty and fellowship, for the time being, of the science and faculty of physic, in the city of London, and to the commons and fellows of the same, an exemption from keeping watch and ward, from being chosen constable, and into other offices, within the city and its suburbs. It was likewise granted, that thenceforth the said president, for the time being, commons and fellows, and their successors, might elect, and choose, yearly, four persons of the said commons and fellows, " of the  
" best

\* A. D. 1540.



“ best learned, *wisest*, and *most discreet*, such as they  
 “ should think convenient, and *have experience* in  
 “ the said faculty of physick,” who should be  
 sworn. On these was to devolve the duty of  
 visiting the shops of apothecaries to examine  
 their drugs and wares. This duty had not been  
 so clearly defined in the charter as it was in this  
 statute, nor had any punishment been decreed  
 for those, who should refuse to submit to such an  
 investigation, and which, by this statute, was  
 fixed to be a fine of five pounds.

It was, furthermore, conceded by this statute  
 of the thirty-second of Henry VIII. “ Foras-  
 “ much as the science of physick doth com-  
 “ prehend, include, and contain the knowledge  
 “ of surgery, as a special member, *and part*  
 “ *of the same*; that any of the said company or  
 “ fellowship of physicians, being able, chosen,  
 “ and admitted by the said president and fellow-  
 “ ship of physicians, may from time to time, as  
 “ well within the city of London, as elsewhere  
 “ within this realm, practise and exercise the said  
 “ science of physick in all and every its members  
 “ and parts; any act, statute, or provision made  
 “ to the contrary notwithstanding.”

The next to this was *An act* of the first of  
 Queen Mary\*, “ *touching the corporation of the*  
 “ *physicians*



“ *physicians in London.*” By this act the original charter, and the statute of the fourteenth and fifteenth of Henry VIII. were fully confirmed, and the continuation of all their articles and clauses was further authoris’d; “ Any acte, statute, lawe, “ custome, or any other thing made, had, or used, “ to the contrarye in anywise notwithstanding.” And *the only objects* of this act were declared to be “ The better reformation of divers enormities “ happening to the common-welth by the evil “ using and undue administration of physicke, and “ for the enlarging of further articles for the better “ execution of the things conteyned in the said “ graunt enacted.” To effect which, it was now enacted, that the gaolers of the different gaols or prisons, within the city and precincts, the Tower of London excepted, should receive such persons as the president, or those legally appointed for searching, examining, correcting, and punishing the offenders against the clauses of the charter and subsequent statute, should commit, under a penalty, for refusing to receive them, of a fine double that, which the offenders themselves had been assessed to pay. The methods of recovering such forfeitures are particularly pointed out.

It was by this act declared lawful for the wardens of the company of grocers, or one of them, to



go with those physicians whose duty it was to search the shops of apothecaries, &c.\* and the forfeiture for not submitting to the search, &c. was made, by this act, ten pounds, to be recovered by the described methods. It was finally enacted, that, upon request being made, the magistrates and officers of the civil power, in the city and suburbs, should assist the president of the college, and all persons authorised for the due execution of the acts and statutes referred to.

In the seventh year of Queen Elizabeth, there was granted to the College of Physicians, “ *A charter for anatomies.*” By a statute of the thirty-second of Henry VIII. “ For barbers and surgeons,” it had been rendered lawful for the masters or governors of the mystery and commonalty

\* As formerly, and until the eighteenth of George II. the surgeons were of one company with the barbers, so were the apothecaries with the grocers. King James I. in the fourth year of his reign, had incorporated both, under the privileges of one charter, and nine years afterwards he disunited them, and granted a separate charter to the apothecaries; but with powers that were not to infringe the right, which the physicians had long possessed, of examining their shops and drugs: by the charter itself, which was granted to the apothecaries, that right was confirmed to the president and College of Physicians; and the further right of calling the master and wardens of the society of apothecaries, as well as of the company of grocers, to assist them in their search and examination. The assistance of the latter is certainly not required, and is therefore never requested.



monalty of barbers and surgeons of London to take at their discretion annually, for anatomies, four persons condemned, adjudged, and put to death for felony, by the due order of the king's laws of this realm. Queen Elizabeth, in like manner, in the seventh year of her reign, after recognising the charter and act of the fourteenth and fifteenth of her father, Henry VIII. conceded to the president and college, or commonalty, of the faculty of Physic in London, the privilege of having annually, at their own option, one, two, three, or four human bodies, for dissection, of such as had been executed after condemnation for felony. But upon the express condition of the dissection being conducted with decorum, and of the bodies being buried, at the expence of the president and college, after the dissection was completed.

There was likewise *a bill*, which it may not be improper to mention, because it has been made the frequent but unavailing ground of defence by empirical impostors, against the college prosecutions, it was of the thirty-fourth and thirty-fifth of Henry VIII. \* “ *That persons, being*  
“ *no common surgeons, may minister medicines not-*  
“ *withstanding the statute.*” It confined that privilege, however, to the subjects of this realm who might have knowledge and experience of the

\* A. D. 1542-43.



the nature of herbs, roots, &c.; and in diseases, except stone, strangury, and ague, external only. It was intended to secure the indigent from the enormous charges of ignorant and avaricious surgeons, such as, it seems, superabounded at that period, and of whom it is said, “ It is now well known, that the surgeons admitted will do no cure to any person, but where they shall know to be rewarded with a greater sum or reward than the cure extendeth unto: for in case they would minister their cunning unto fore people unrewarded, there should not so many rot and perish to death for lack of help of surgery, as daily do.

“ For although the most part of the persons of the said craft of surgeons have small cunning, yet they will take great sums of money, and do little therefore, and by reason thereof they do oftentimes impair and hurt their patients, rather than do them good.”

This bill may be thought by some, perhaps, to give a legal countenance to quackery; but, in courts of law, it has been construed to imply, merely, the license of gratuitous practice.

In a litigation between the College of Physicians and John Butler (the sixth of Charles I.) for his having practised physic eleven months  
contrary



contrary to the statute, this bill was pleaded in behalf of the defendant. But in declaring the decision of the bench, Richardson, the chief justice, for himself and the other judges, said, “ And  
 “ upon consideration of all the law of thirty-fourth  
 “ Henry VIII. we be of opinion that this statute  
 “ doth not reach, neither in words, nor in intent  
 “ and meaning, to give liberty to any person that  
 “ practises or exercises for lucre and profit; and  
 “ it is apparent by the preamble, and the statute  
 “ also, that this was made principally against  
 “ chirurgeons which were covetous, &c. And  
 “ therefore the statute hath limited who should  
 “ practise, and for what diseases, and the parties  
 “ licensed thereby were those which were good  
 “ honest people, as old women, and such as  
 “ would give neighbourly physick for charity and  
 “ piety, and not such as look for gain thereby,  
 “ as empiricks, that do not doe any thing for  
 “ piety and charity. So that this statute excludes  
 “ all those that take any money or gain.”

With respect to the royal charters, as they are called, of James I. and Charles II. neither of them ever received the sanction and ratification of parliament, and therefore they are both alike invalid as a ground for any legal procedure. Indeed if their validity were established beyond all possible dispute, yet is there not any motive manifested



tested for granting them different from the declared motives for granting the original charter of Henry VIII.

The expression may be somewhat more full in these; and the means of accomplishing their object more particularly described: that of James I. however is little more than a recapitulation of the original charter, which it intended to confirm in all its clauses. It explained more at large the means of effecting its purpose: and had in view to confirm to the college the further privilege of choosing a register and inferior officers; and to vest in the president and any six persons of the college or commonalty the power of making by-laws, under express restrictions.

By the preamble to the intended charter of Charles II. it is evident, that there was not any deviation in that from the principle of the original charter, nor any new motive for the intention to extend the corporate powers of the college; for the only professed object, still, was to remedy the mischiefs arising from the practice of the *illiterate* and *unskilful*. The words expressly are, “ Itt  
 “ hath beene made most apparent and evident  
 “ unto us, that the number of unskillfull, illiterate  
 “ and unlicensed practizers of phyficke, in and  
 “ about our said cittie of London, hath of later  
 “ yeares



“ yeares much increased, and att present doe day  
 “ lie multiply, together with the renewed frauds,  
 “ abuses and deceits of divers apothecaries, drug-  
 “ gists, and others inhabiting in the same cittie  
 “ frequently exercised and practised in the mak-  
 “ ing, prepareing, ordering and venting of druggs  
 “ and other things relateing to the said facultie  
 “ of physicke, to the greate dishonour of this na-  
 “ tion and of the sage and learned professors of that  
 “ facultie soe noble and necessary, and to the detri-  
 “ ment of us and our good subjects. The cheife  
 “ cause or ground whereof, as wee are given  
 “ to understand, ariseth from some defects in the  
 “ said constitution, the coercive and penal powers  
 “ thereof beeing not aptly and usefully placed  
 “ and settled, by means whereof subtil and crafty  
 “ men, wholly ignorant and unskilled in the fa-  
 “ cultie of physicke, have in defiance of authoritie  
 “ dared publiquely to professe and practise phy-  
 “ sicke in our said cittie of London, and by new  
 “ inventions and delusions deceived much peo-  
 “ ple, thereby advanceing their private commo-  
 “ ditie in the greate detriment of the publique,  
 “ and yett have evaded the just and condigne  
 “ punishment provided and intended by the  
 “ charters and acts of parliament aforesaid for  
 “ such presumptuous offenders. Which to pre-  
 “ vent in the future and that a due and seasonable  
 “ reformation may bee had in all the premises,  
 “ and



“ and an apt proper and legall constitution and  
 “ incorporation may be had and established of  
 “ grave and learned doctors, and other able  
 “ and experienced practisers of physicke, in and  
 “ about our said cittie of London, indowed with  
 “ powers and priviledges convenient and requi-  
 “ site for the ends aforesaid: know ye that wee  
 “ of our especiall grace, &c. have willed, ordeyn-  
 “ ed, constituted, declared, given and graunted,  
 “ and by these presents for us our heires and suc-  
 “ cessors doe will, ordeyne, constitute, declare,  
 “ give and graunt, &c.”

Such considerations are of national import-  
 ance, and worthy the deliberate investigation of  
 the legislature. The circumstances complained  
 of, however, were such as had existed before,  
 and such as had been already guarded against by  
 the crown and parliament. There needed not  
 any thing but the exertion of powers, which had  
 been granted already, to accomplish the object in  
 view: and to have sanctioned, by a decree in  
 parliament, these charters subsequently intended,  
 would have been supererogatory, and they were  
 set aside. That the very contemplation of them,  
 however, under the promised protection of the  
 crown, might have influenced the general con-  
 duct of the college, is surely no very unfair sup-  
 position; or it is possible, that the college having,  
 from



from time to time, adopted measures, which they were conscious they could not justify, might have solicited as well as this, as the charter of James I. to obtain countenance for conduct, which they had pursued, and sanction for continuing it.

The charter of Charles II. is the first, which specifically nominates the distinction of *fellows* and commonalty of the college; and until the year 1752, under whatsoever description they might have been considered by the fellows of the college, the licentiates were summoned to the *comitia*, with as much respect in form as were the fellows themselves, and in similar habiliments *cum pileo & toga*.

This summons was issued, and its mode prescribed from a by-law, which pertained to the decorous appearance in the *comitia majora Collegarum*, &c. of the president, vice president, elects, censors, *reliquique omnes Socii*. If the licentiates, *therefore*, had not the rank of the *Socii*, or fellows; they must have been considered as a part of the commonalty of the college, since they were summoned as of the number of *Collegæ*; and by the charter of Charles II. it was intended, that the *fellows* of the college should be elected out of the commonalty,



alty, whenever a vacancy should happen in the number of fellows, which was proposed to be limited to forty.

But whatsoever features of that charter, may have been apparent, from time to time, in some of the transactions of the college, their own conviction of a deficiency in any right derivable from it is clearly evinced, by their not having availed themselves of the most essential extra privileges, to which it would have entitled them. They have never, in consequence of it, limited the number of their fellows to forty \*: neither have they ten elects, as intended by that charter, but eight, as enacted by the statute of the fourteenth and fifteenth of Henry VIII. but, more especially, they neither petition parliament, nor sue nor are sued, by the name of “ The president, fellows, and commonalty of the King’s College of Physicians in the city of London,” conformably to the intention of the charter of Charles II. but always by that of “ The president and college, or commonalty of the

\* The charter was petitioned for in 1662, the Pharmacopœia, published by the college next after that date, was that of 1677, fifteen years posterior to it. There is in that pharmacopœia a catalogue of fifty-three fellows of the college, and of them only seventeen surviving of the forty particularly nominated by the charter of Charles II. as the first forty to be appointed.



“ the faculty of phyfic in London,” as directed by the charter and fubfequent act of Henry VIII.

In proof of this, there was a petition prefented to parliament in 1725 by Dr. Freind, then a member of parliament, from “ The prefident and college, or commonalty of the faculty of phyfic in London,” praying for a check to the increafing and pernicious ufe of fpirituous liquors. So, likewise, in their replications to the fuits of Dr. Letch in 1767, 1768, and of Drs. Archer and Fothergill in 1769, 1770, 1771; they replied, as they were fued, by the name of “ The prefident and college, or commonalty of the faculty of phyfic in London\*.”

In instances where fo ftrict an attention to legal form was not neceffary, they have certainly followed a lefs fcrupulous mode of expreffion: thus, in an addrefs to William III. congratulating him on his return from the continent in 1697, after the ratification of peace at Ryfwick, they faid, “ We, the prefident, fellows, and *other members* of your Royal College of Phyficians in London humbly crave leave to congratulate your Majesty’s fafe return into thefe your kingdoms,

\* Rex v. Dr. Askew & al’. *Bur. Rep. V. iv. p. 2186.*  
Rex v. College of Phyficians. *Ibid. V. v. p. 2740. 2753.*



“ doms, &c.”: and likewise, in an address of congratulation to George I. on his accession to the throne in 1714, they began “ We the pre-  
 “ fident, elects, cenfors, fellows, and *other mem-*  
 “ *bers*, of your Majesty’s Royal College of Phy-  
 “ ficians, &c.”

It may not be improper to observe, that the licentiates might have thought themselves included, by the expression *other members*, in such dutiful addresses to the throne, so long as they were respectfully summoned to the *Comitia*: for they could not then have been acquainted with the *narrowed definition* of the word *Collega*\*, which was promulgated in 1765, after the custom of summoning them to the *Comitia* was abolished: and there, certainly, is not any evidence, that the licentiates were *ever* less zealous in their loyalty, than the fellows of the college themselves.

It is allowable for the language of congratulatory addresses, from any incorporated society, to be more vague than would be compatible with the precision necessary in forms of law; for as not any idea of the peculiar modification of their legal existence is to be inferred from it,  
 any

\* Per Collegas intelligi volumus aut socios aut societatis nostræ candidatos. *Statut. Coll. Med. Lond.* 1765. p. 28.



any trifling deviation from their proper title may, upon such occasions, be readily excused: and it may not be necessary to multiply examples to prove, that, in all legal proceedings, the College of Physicians derive their title from the charter of Henry VIII. which circumstance, of itself, implies a full conviction of the invalidity of the subsequent charters of James I. and Charles II.

The authority of Sir William Browne, however, should not be omitted, because it shews, that the charter of Charles II. in particular was never valid, as many have contended that it was. Although not any man ever betrayed more, than Sir William Browne, the illiberal folly of academical ostentation, nor a more narrow and prejudiced adherence to the *minutiae* of college punctiliousness, which this charter might in some degree have favoured, yet he openly declared it to be “ only the outer case of a charter, and “ even that deficient and inconsistent. That the “ inner works and movements, which required “ the finishing hand of the legislature, were indeed expected to have been, but never were “ put in parliament.” Its miscarriage in parliament he attributed to the society of apothecaries, and availed himself of the “ elegant Latinity of “ Sir Geo. Ent,” to express the mutual injury,

F 2

which



which was done by the apothecaries to themselves and the college, by their opposition to this charter, “ *Rem non sibi minus, quam nobis, utilem futuram sufflaminarunt* \*.” How vast a cause for a sickly multitude to exclaim, *dii boni ! quid potest agi severius ?*

But if it be true, that all the learned physicians of grave deportment practising in London, and seven miles round, and possessing the rights of British subjects at the time of enacting the original charter for incorporating physicians, were *ipso facto* incorporated by it ; and if it be true, that, by the subsequent act of the fourteenth and fifteenth of Henry VIII. confirming the charter and granting further privileges, all such physicians practising within the same limits, who upon examination should prove themselves sufficiently “ profound, sad, and discreete, “ groundly learned, and deeply studied in phy- “ syke ;” were legally entitled to all the corporate rights of the college, then will a question naturally arise : How has it happened that so many approved men of this description have been, for so great a length of time, excluded from the enjoyment and exercise of those rights ?

As

\* Sir Will. Browne's Vindication of the Roy. Coll. of Phys. 4to. 1753. p. 10.



As we have fought in vain for the reasons, in the decrees of the crown and legislature; and as we have seen that the delegated powers of the only legal agents of the college, their *magistri & gubernatores* the president and censors, are not inconsistent with the views of the charter; we can only expect to develop the source of the exclusion by investigating the by-laws of the college itself. But the operation of these cannot be permanently counteracted, except either by a reasonable concession on the part of the college, or by a legal disannulment of their assumed privilege of making such by-laws.

It is, in all cases, difficult to bring back, to principles of rectitude and justice, minds warped by any rooted prejudice, and the difficulty is always excessive, when prejudice is fed and confirmed by narrow and selfish views of interest. Nor is it to be expected, that partial advantages long possessed will be yielded without contest. But as the reasonable concession has not been made by the college, after they have been applied to very respectfully, and especially as they have not *deigned* to return an answer to the application, it cannot be improper to investigate the probability of accomplishing a legal disannulment of the usurped power, which they have so long exercised; the power of debarring men of ex-  
perience



perience and of acknowledged learning and skill, from a participation in those corporate rights, to which every man is readily admitted, if he have graduated in Oxford or Cambridge.

This must certainly strike every candid and reasonable mind, as a usage not less repugnant to the interest of society at large, than it is manifestly proved to be contrary to the intention of every act of the crown and legislature, which grants privileges to the college. It totally changes and degrades the original nature of the institution itself, and is as derogatory to the liberal views professed, by the first applicants for the charter, as it is destructive of the salutary end intended by its grant.

It must be self-evident to every man of common understanding, who, in the least, considers the subject, however ignorant of the law he may be, that the power, which is inherent in a corporation, of making by-laws cannot be an arbitrary power: that it can never be reasonably exercised, when exerted with a tendency to counteract the specific objects of the corporation itself. And this is an axiom, which any man, who will give himself the trouble, may satisfy himself that the law confirms.

“ The



“ The general *duties* of all bodies politic, considered in their corporate capacity, may, like those of natural persons, be reduced to this *single one*; that of acting up to the end or design, whatever it be, for which they were created by their founder\*.”

The opinion delivered by Mr. Morton, Mr. Cox, and Mr. Wallace, in the case, *Rex versus Spencer*, the sixth of Geo. III. is founded directly upon that principle. “ The power of making by-laws is to be taken *strictly*: and therefore this power to make by-laws shall *not be extended* further than what appears to be the manifest intention of the charter †.” It was observed by Mr. Justice Wilmot, in the same case, that “ The court ought to take care, that the persons empowered to make by-laws exerted their power in a reasonable manner ‡.” And by Mr. Justice Yates upon the same occasion, that “ Corporations cannot make by-laws *contrary* to their constitution. If they do, they act without authority §.”

Lord Chancellor Macclesfield declared, that “ A corporation has an implied power to make “ by-

\* Blackstone's Comment. V. i. p. 479, 480.

† Bur. Rep. V. iii. p. 1831.

‡ Bur. Rep. V. iii. p. 1834.

§ Ibid. p. 1839.



“ by-laws ; but where the charter gives the com-  
 “ pany a power to make by-laws, they can only  
 “ make them in such cases, as they are enabled  
 “ to do by the charter ; for such power given by  
 “ the charter implies a negative, that they shall  
 “ not make by-laws in any other cases \*.”

It was maintained by Mr. Dunning, and by Lord Thurlow, when a counsellor at the bar,  
 “ That it is not in the power of a corporation  
 “ to contravene the fundamental principles of  
 “ their constitution. A corporation cannot  
 “ change their constitution, and give themselves  
 “ a new mode of existence. They cannot nar-  
 “ row the number of those *out of whom* the elec-  
 “ tion is to be made ; nor can they leave out an  
 “ *integral* part of those who are to elect, though  
 “ they may narrow their number. They can-  
 “ not *superadd qualifications not mentioned in the char-*  
 “ *ter*, and not connected with the corporate cha-  
 “ racter of the electors. The crown has given  
 “ them a charter : they have accepted it. They  
 “ must use it as the crown have given, and as  
 “ they have accepted it. *They cannot make a by-*  
 “ *law contrary to its intention* † ;” and it was set-  
 “ tled,

\* Child v. Hudson's Bay Company. *Peere William's Rep.* V. ii. p. 209. *Mr. Cox's Edit.* V. ii. p. 208.

† Rex v. Head, and others. *Bur. Rep.* V. iv. p. 2520.  
 See also Mr. Justice Yates, and Mr. Justice Aston's declara-  
 tions



“ tled, not only in the case, *Rex v. Phillips*, but  
 “ also in the case of *Lee v. Wallis, & al.*’ that  
 “ a by-law may narrow the number of the *elec-*  
 “ *tors*, but not of the *eligible*.\*”

Now if it have been proved, that the charter, by which the *docti & graves viri* of the faculty of physic practising within London and seven miles round were incorporated, did neither express nor imply any preference to particular universities: If it have been proved, on the contrary, that all the *docti & graves viri* of the faculty of physic, who practised within that specified district at the time the charter was granted, were, without distinction, incorporated with the six petitioning physicians, who were the immediate grantees under the charter; and that all other physicians, *who*, with the rights of British subjects, *could* give testimony of adequate learning and skill, were eligible to admission into the incorporated college: then is the by-law, which demands prior graduation at Oxford or Cambridge, or prior admission *ad eundem gradum* in one of those universities, a by-law, which *superadds*  
*a qualifica-*

tions in the case, *Rex v. Spencer*. *Bur. Rep. V. iii. p. 1834*.  
 See also, *Rex v. Cutbush*. *Bur. Rep. V. iv. p. 2206, 2207*.

\* January 27, 1756. *Bur. Rep. V. iii. p. 1833*, in a note.  
*Rex v. Phillips*, Mayor of Carmarthen. *Trin. 1749. 22, 23*.  
 G. II. B. R.



*a qualification* not mentioned in the charter; which narrows the number of those *out of whom* elections are to be made; which excludes an *integral part* of those who are to elect; which is made *contrary* to the manifest intention of the charter as granted and accepted, and which is, therefore, essentially and decisively illegal.

The history of the by-laws, which exclude all physicians, but the graduates of Oxford and Cambridge, from the fellowship of the College of Physicians, might itself, perhaps sufficiently, convince any one not interested in their continuance, that they are arbitrary and untenable. It must, however, be acknowledged, that this opinion rests upon the ground of a limited acquaintance with the college annals.

There has ever been some difficulty, even for the fellows of the college, to obtain the use of them. The possession of them is now, I understand, confined to the president, register, and four censors. Towards the latter end of the last century, several complaints were made by Dr. Tyson and other fellows of the college, on the subject of the difficulty of access to them; and it was not until 1721, that it was proposed that the president should keep a copy of the annals, upon



upon giving a bond of one hundred pounds for his returning them when his office expires.

This circumstance is mentioned, only to point out the impracticability of procuring such an insight, had it been required, into the private transactions of the college, as would have enabled any one to judge and to speak with the greatest accuracy on the subject. But from the sources, confined as they have been, from which I have derived my information, I think it is possible to trace the gradation from a trivial encroachment upon the first and only legal principle of the chartered rights of the college, with respect to the admission of its members, to an arbitrary excess, which has effected the total annihilation of every appearance of that principle.

The act of the first of Queen Mary, "*Touching the corporation of physicians in London*," is of the date of 1553. That act recognises the confirmation of the charter of the tenth of Henry VIII. by the statute of the fourteenth and fifteenth of the same reign, and it enacts as mentioned before ; " That the said statute or act of parliament, with every article and clause therein conteyned, shall from henceforth stand and continue still in full strengthe, force and effect ; any acte, statute, lawe, custome, or any other thing



“ thing made, had or used to the contrarye in  
 “ any wise notwithstanding.”

There were not any new powers granted by this statute of Queen Mary, but only a provision made for better carrying into effect those that had been granted already, and for no other purpose but for that, which is specifically expressed, namely,  
 “ For the better reformation of divers enormities  
 “ happening to the commonwelth by the evil  
 “ using and undue administration of phyficke,  
 “ and for the enlarging of further articles for the  
 “ better execution of the things conteyned in the  
 “ said graunt enacted.”

It was in 1555, two years after the issuing of this act of Queen Mary, that the College of Physicians first determined to arrange the physicians practising in London and seven miles round, into three classes: into fellows, candidates, and licentiates. This was at a period about thirty-six years posterior to the charter of Henry VIII.; and when no reformation, that has left a trace behind it, had been effected in the general state of the practice of physic in this country. The age was still too barbarous for much improvement of the kind, and the numerous prosecutions against persons accused of empirical and pernicious practice, during the successive reigns of Mary, Elizabeth, James I.



James I. and Charles I. bear sufficient testimony of the slow progress of medical improvement, in England.

In the third year of the reign of Mary, “ The  
“ surgeons and apothecaries were prohibited the  
“ practising of physick \* ;” and in the fourteenth  
of Elizabeth, at the solicitation of the College of  
Physicians, it was determined “ That the sur-  
“ geons should not give inward medicines in the  
“ *Sciatica, French Pox, or any kind of ulcer or*  
“ wound †.”

During the reign of Queen Mary, the use of mercury, in the cure of *Lues Venerea*, had scarcely become general ; and so little were its powers comprehended, that as much mischief was frequently occasioned by its improper application, as was ever occasioned by the abuse of any medicine whatsoever. Effects were often produced by it more direful than the diseases, which it was made use of to cure, so that it was observed by *Fernelius*, a cotemporary practitioner, that the cure was most generally effected “ *Tanta cum doloris*  
“ *acerbitate, & malorum acervo, ut credi possit, ni-*  
“ *mium vivendi cupidos, qui non mori maluerint, quam*  
“ *sic vitam proferre ‡.*” *Fernelius* referred particularly,

\* Goodall's Roy. Coll. of Phys. &c. p. 310.

† Ibid. 315, 316.

‡ Fernel. de Morbis Universal. & particul. Tom. ii. p. 375.



larly, perhaps, to the practice in France, but the rational use of mercury was earlier understood upon the continent than in Britain.

Restraint in practice, upon account of the flagitious abuse of this most powerful remedy alone, was never more necessary than it had become at that period. The necessity of the case might have sufficiently justified the college in the measure of examining all men, who were in the least engaged in the practice of physic, and of licensing those, whom they found equal to partial practice only; and who were not qualified for admission into the fellowship of a college of learned and scientific men. They might have done this consistently with the letter of their charter; and by doing it have well promoted its objects. The restraint itself was an example of the fair and reasonable *gubernatio omnium hominum facultatem medicinæ exercentium*.

In the reign of Charles I. a Mr. Shepherd, being summoned before the president and censors, “ was rebuked for his practising upon madmen, “ without calling a physician to the cure, according to the *tenour of his permission granted him by the college*, and his own promise \*.” The custom of partially licensing practitioners was, in all

\* Goodall's Royal Coll. of Phys. &c. p. 466.



all probability, prevalent from the very time the college first established such an order as licentiates.

Lord Mansfield observed in the case, *Rex v. Dr. Askew, & al'*, the eighth of Geo. III. that  
 “ a *partial* licence was granted to an oculist in  
 “ 1561. A person (said he) may be fit to prac-  
 “ tise in *one branch* who is *not* fit to practise  
 “ in *another*. Licences have also been granted to  
 “ *women*, and that may not be unreasonable in  
 “ particular cases, as for instance, such as *Mrs.*  
 “ *Stephen's* medicine for the stone. *Partial* licen-  
 “ ces (he continued) have been given for above  
 “ two hundred years \*.”

This carries back their introduction to about the period of the first establishment of the three separate classes of practitioners. It is very probable, that the whole class of licentiates consisted then of such persons as were incompetent to general practice ; and that all physicians, possessed of the rights of British subjects, who were *desirous* of admission into the college, were entitled to a fair examination, and, as a matter of course dependent upon chartered right, if found competent, were indisputably eligible to be elected into the commonalty or fellowship. It will appear

\* In 1768. *Bur. Rep. V. iv. p. 2197.*



pear that this conclusion is well supported by facts.

In the answer, which the college returned to the writ of Dr. Fothergill against them in 1771, they asserted, that on the first of February 1555, a by-law was made, not now extant in writing\*,  
 “ whereby it was ordained, that every person  
 “ *thereafter* to be admitted a member of the col-  
 “ lege or commonalty, should, before his being  
 “ admitted a member of the said college or com-  
 “ monalty, be *elect*ed by the president and college,  
 “ or commonalty†; and that on the same day, Fe-  
 “ bruary the first 1555, another by-law, not now  
 “ extant in writing, was made, whereby persons  
 “ then exercising, or who should at any time there-  
 “ after exercise the said faculty of physic in the  
 “ city of London, and within seven miles round  
 “ the same, were distinguished into three classes  
 “ or orders, namely, one class consisting of the  
 “ *members* of the said college or commonalty, for  
 “ the time being, who were then, and were to  
 “ be from thenceforth called *fellows* of the said  
 “ college or commonalty. Another class, con-  
 “ sisting of such persons *as had been, or should be*  
 “ *desirous*

\* That a by-law was made, may be presumed from the custom which has obtained, although the by-law itself cannot be produced. See to this effect, Lord Coke's Rep. 8vo. part iv. p. 78.

† Rex v. Coll. of Physicians. Bur. Rep. V. 5. p. 2754.



“ *desirous of becoming members* of the said col-  
 “ lege or commonalty, *and had been, or should be*  
 “ *examined and approved of* by the president and  
 “ censors of the said college or commonalty, *as*  
 “ *candidates for election* into the society or fellow-  
 “ ship of the said college or commonalty, who  
 “ were then, and who were to be from thence-  
 “ forth called *candidates*.” And “ The other  
 “ class to consist of such persons as then were, or  
 “ at any time thereafter should be *licensed* and  
 “ admitted to exercise the said faculty of physic  
 “ in the city of London, and within seven miles  
 “ round the same, by the said president and col-  
 “ lege, or commonalty, by their letters sealed  
 “ with the common seal of the said college or  
 “ commonalty, which last mentioned class *not*  
 “ *being members* of the said college or common-  
 “ alty, were, and were to be from thenceforth  
 “ called *Permissi*, or licentiates \*.”

In 1575, twenty years posterior to the asserted  
 origin of this by-law discriminating three classes  
 of medical practitioners, there were not any li-  
 centiates named among the members of the col-  
 lege. It is not at all likely that those, to whom  
 merely *partial* licenses had been granted, should  
 have been considered qualified and entitled to  
 have their names inserted as members of the  
 college.

\* Rex v. Coll. of Physicians. *Bur. Rep. V. v. p. 2755.*



college. But there was another order of practitioners at that time, besides fellows, candidates, and licentiates, whose names were inserted in the college catalogue, as members, under the denomination of *Strangers of the College*. It is highly probable, from their being classed as strangers, as well as from their names \*, that they were foreigners, and graduates of foreign universities. But the *strangers* were eligible to admission into the order of candidates, and consequently into the fellowship of the college, for in the college list of 1575 *Doctor Spiringe* is inserted as a *stranger* and a candidate. As then Dr. Ferdinand De Victoria, one of the six physicians through whom, chiefly, the charter was obtained, was a foreigner, and as it is reasonable to conclude that the strangers of the college, who were eligible to the fellowship, were foreigners likewise; so it appears that, at the time the college was founded, and for more than fifty years afterwards, foreigners were admissible to a distinction in it, which many are now arbitrarily denied, who are entitled by birth to all the privileges of British subjects, and who have been educated in British universities †.

Neither

\* Dr. Julio, Dr. Martyn Corymbanck, Mr. Hector, Dr. Lopes, and Dr. Spiringe, a candidate, who is likewise denominated a stranger. *Maitland's Hist. of London*, V. ii. p. 929.

† A very considerable number have been educated in the University of *Edinburgh*, which for more than half a century past has been most justly celebrated as the first *Medical School* in



Neither aliens nor denizens can, even at this time, execute, in this country, any office of civil or military trust; and in the sixteenth century the restrictive laws against aliens and denizens were severer than they are now\*. But as health is naturally the first concern of man, and as foreign physicians were so frequently employed here by the crown, and as all English physicians were indebted for their knowledge to foreign universities; Is it not unreasonable to suppose, whilst the superior education and celebrity of foreign physicians procured them particular estimation and *extraordinary indulgencies* in this country, that British subjects educated abroad should have been excluded, with the *stigma* of implied inferiority, from the privileges of that corporation, which was established for the reformation and promotion of the science of physic?

It was very usual formerly to admit, into the number of licentiates, surgeons and apothecaries, men who had taken no degree in physic. Nearly twenty such were licensed during the reigns of William III. and Queen Ann, and others more recently.

in Europe. Men of all nations have resorted to it, to profit by the instruction of professors, who have combined with the most active exertion all the advantages of eminent abilities, and of learning.

\* See Blackstone's Comment. V. i. p. 372. 374.



recently. Such licentiates, even since the college catalogues have been annually printed, and the names of the *permissi* inserted, have never been ranked in them as doctors in physic, although licensed to practise generally\*.

That the surgeons and apothecaries had not any privilege to practise, independent of a license from the College in the sixteenth century, appears clearly from their having been prohibited from practising, in the reigns of Mary and Elizabeth, at the solicitation of the College of Physicians. And hence it is probable, that the class of licentiates was originally established with a view to sanction, under circumstances of reasonable restraint, persons who might have *procured* degrees, but who were incompetent to general practice, and the more skilful of the apothecaries and surgeons, in exercising the medical profession partially. This opinion is strongly confirmed by the terms of the by-law, in the early copies of the college general statutes, under which licentiates were admitted to practise.

“ † Since that many practise physic in the city  
“ of London, whom the president and college or  
“ commonalty

\* In the present catalogue of the College of Physicians, there is an instance of this, in a very respectable character.

† See Appendix D. and Bur. Rep. V. v. p. 2757.



“ commonalty deem altogether unfit, to be adopt-  
 “ ed into the number of fellows or candidates,  
 “ either because they are not *Britons* by birth; or  
 “ have not taken the *degree of a doctor*; or are  
 “ not sufficiently advanced in *age or gravity*, or  
 “ for other like causes, and yet may be able to  
 “ serve the public and do good to mens health,  
 “ *at least in some cures*, it is ordained and ap-  
 “ pointed, that after due examination and appro-  
 “ bation of the president and censors, such per-  
 “ sons shall be *permitted to practise so long as they*  
 “ *behave themselves well.*”

The date of this by-law, when it was menti-  
 oned, in the college answer in 1771, to have been  
 that, under which Dr. Fothergill had been per-  
 mitted to practise physic, was said to be the 4th  
 of April 1737\*. It is however a by-law, which  
 is extant in every manuscript copy, that I have  
 seen of the general statutes of the college, and  
 it appears highly probable, that it was the origi-  
 nal by-law, under which licentiates were admit-  
 ted to practise. But neither this by-law, nor  
 any by-law can deprive those of their *eligibility* to  
 be admitted to a full participation of corporate  
 privileges, who are *Britons* by birth; who have  
 taken the *degree of doctor*; and *who are further ad-*  
*vanced* in age and gravity than most of the gradu-  
 ates

\* Bur. Rep. V. v. p. 2756, 2757.



ates of Oxford and Cambridge are, when first admitted to the fellowship of the college ; and who have, moreover, given decisive proofs, both to the college in their corporate capacity, and to the world at large, that they are neither deficient in learning, nor in medical skill.

The *regular* medium of admission, to the privileges of the fellowship of the college, is a year's probation in the order of candidates. It may perhaps have always been so since 1555. Not any one will dispute the propriety or wisdom of fixing a term of probation for those, who are to be intrusted with so momentous a charge as the health of their fellow creatures ; and upon whose judgment rests often their very existence.

It has not been urged, when such an order as candidates or probationers was established in 1555, that not any, but the *regular* graduates of Oxford or Cambridge, were eligible to admission into that order, and subsequently to the fellowship. It was decreed then, as before stated, that the fellows only should be considered *members* of the college, and that the class of candidates should consist of “ *such persons as had been, or should be* “ *desirous of becoming members* of the said college “ and commonalty, and had been, or should be “ examined and approved of by the president “ and



“ and cenfors of the faid college or commonalty,  
 “ to be *candidates for election* into the fociety or  
 “ fellowfhip of the faid college or commonalty,  
 “ who were then, and were to be thenceforth  
 “ called *candidates*.”

This by-law was confiftent with the powers granted to the college by their charter of incorporation, for the word *communitas* in the charter, implies not a feparate clafs of *members*, but is ufed exprefsly as a fynonymous term to *collegium*, the *aggregate* college \*. Neither at the time the charter was granted, nor even in confequence of the diftinction of orders made in 1555, could any poffefs the rank of *Collegæ* or members of the college, except thofe, who had been *bonâ fide* admitted to every corporate right. The firft ftatute, *de Candidatis* †, of the printed ftatutes of 1765, however, eftablifhes a clafs of actual members of the college, who are not, in fact, allowed any one corporate privilege. This nominal and ineffectiue rank as members, may, indeed, ferve to mark the commencement of future partial patronage and advancement; as it ferves to diftinguifh

\* Lord Mansfield faid “ I confider the words *Socii, communitas, collegium, focietas, collega* and *fellows*, as fynonymous terms; and every *focius* or *collega*, as a member of the fociety or corporation of the college. *Rex v. Dr. Askew, & al’. Bur. Rep. V. iv. p. 2195.*

† See note, p. 66. of this Pamphlet.



tinguish the *Socii nascentes* from the *minus docti ad medicinæ facultatem exercendam tantummodo permitti*.

We are not informed, however, of any by-law nearly coeval with the charter, to prohibit physicians, as many are now prohibited, the right of an application to be examined as candidates for election into the fellowship of the college. “ *Till the time of Queen Mary,*” (said Mr. Justice Aston) “ there was no distinction of *major and* “ *minor* among these physicians \*.”

There is a hiatus of nearly a century, between the first division of medical practitioners, in London and its vicinity, into three classes, and the date of the earliest by-laws of the college that have been referred to in this general view. During so long an interval, there is no doubt but many regulations must have been made in the government of the college: but among the by-laws, called *statuta nova*, which bear the date of 1647, and which are said to have been confirmed and established in 1687, there is one, the eighth, which indisputably proves, that admission into the *order of candidates*, at that period, was, under a specified restriction, open even to the apothecaries and surgeons. “ †If perchance any surgeon or “ apothecary should offer himself to the president “ and

\* Rex v. Dr. Askew, & al'. *Bur. Rep. V. iv. p. 2201.*

† See Appendix E.



“ and cenfors, for examination, that he may be  
 “ received into the *number of candidates* ; we will,  
 “ that before examination, or at least before ad-  
 “ mission, he be free of every oath and obliga-  
 “ tion, by which he was formerly bound to his  
 “ own community ; for neither do we think  
 “ it just nor adviseable, to admit any one into  
 “ our society, who has his faith pledged to  
 “ any other.” This by-law stands the eighth,  
 likewise, of the *Statuta Nova*, in the printed copy  
 of the statutes of the College of Physicians Lon-  
 don, published in 1693, and is there said to have  
 been made in 1687 ; but in this printed copy,  
 after “ into the number of candidates,” the  
 words, “ or licentiates,” are inserted.

It is however to be supposed, although it is  
 not so expressed in this statute, that surgeons or  
 apothecaries, who should apply for admission into  
 the *order of candidates*, under this statute, were  
 required to bring documents of their having taken  
 a doctor's degree, and of their having been in-  
 corporated in one of the universities of England :  
 for the statute *De Candidatis*, in those general  
 statutes of the date 1647, and of the date 1687,  
 as published in 1693, decrees “ \* That the num-  
 “ ber of candidates shall not exceed twelve :  
 “ that no one shall be admitted into that order,  
 “ who

\* See Appendix F.



“ who is not a *Doct̃or of Physic*, a *Briton* by birth,  
 “ and who has not practised physic for four years.  
 “ If he shall have taken his degree in any foreign  
 “ university, he shall produce and shew to the  
 “ college, before he is admitted to examina-  
 “ tion, his diploma, or true and genuine letters  
 “ testimonial of that university: and he shall  
 “ have and shew a testimony of his *incorporation*  
 “ in one of our own universities.” This statute  
 was continued among the *statuta de Candidatis*, in  
 all the copies which I have seen, until those of  
 1765, which were published by the college, ex-  
 cept that the clause limiting the number of can-  
 didates to twelve was omitted in all subsequent  
 to the date of 1693.

The custom of incorporating to a degree in the  
 English universities, prior to admission into the  
 College of Physicians in London, certainly exist-  
 ed long before the earliest date of any of those  
 statutes.

It appears to have been usual with the college,  
 to affix to their statutes the date of their latest  
 confirmation, and there cannot be a doubt but that  
 this very by-law, or one similar to this, was in  
 force antecedent to the year 1647. For Dr.  
 Winterton, professor of physic in the University  
 of Cambridge, in a letter to Dr. Foxe president  
 of



of the College of Physicians, dated in 1635, complained of the facility with which incorporation was to be obtained there, at that time, by persons totally unqualified. His words are, “ I have  
 “ observed and grieved to see, sometimes a mini-  
 “ ster, sometimes a serving-man, sometimes an  
 “ apothecary, admitted to a licence to practise in  
 “ physick, or to be *incorporated to a degree*, with-  
 “ out giving any publique testimony of their  
 “ learning and skill in the profession;” and in another part of the same letter, he says, that *incorporation* was “ in an instant obtained by a  
 “ little summe of money\*.”

Now, as was observed in the late address of certain of the licentiates to the college, “ [Such  
 “ an incorporation could surely furnish no proof  
 “ of the learning or character of a candidate for  
 “ admission into the college; and the only mo-  
 “ tive for requiring it, seems to have been a de-  
 “ sire in the members to increase the emoluments  
 “ of the universities, where many of themselves  
 “ had been educated.”

This might, probably, have been the fact.—  
 But the demand was indisputably a deviation from the first principle of the college charter; but not being a deviation productive of any  
 obstacle

\* See Goodall's Royal Coll. of Phys. p. 443, 444.



obstacle to the ultimate success of the candidate, which was not easily to be surmounted, it was not likely to excite any considerable opposition.

There are other statutes, which as much betray a desire to increase the emoluments of the college itself, as those of the universities, where many of its members had themselves been educated. They appear however at the same time, to have originated in an anxious solicitude to magnify the importance of the English universities, by depreciating all others. Yet from some of those others were transplanted a great share of that science, which enriches our own schools, and all the fundamental principles of that system to which, even now, the English universities are only verging in their arrangements for medical education.

The statutes alluded to are in the manuscript copy of 1647, and likewise in the copy published in 1693. They state, “ \* since that there are  
 “ many, who come hither daily to practise physic,  
 “ a considerable number of whom, quitting pre-  
 “ maturely their own universities, go into foreign  
 “ countries, that they may acquire their doctor’s  
 “ degree in less time, and at less expence than  
 “ they could do in our own universities ; there-  
 “ fore

\* See Appendix G.



“ fore we enact, that every one admitted into the  
 “ society of the college, the order of candidates,  
 “ or the number of licentiates, who shall have  
 “ taken his degree abroad, shall pay, on his ad-  
 “ mission, *fees* to the college, president, treasurer,  
 “ register, and other college officers, *double* to  
 “ those, which they pay, who have graduated  
 “ in our own universities.” Again, “ whofo-  
 “ ever shall be created a doctor in our own uni-  
 “ versities, if, by hastening to that degree more  
 “ speedily than is proper, he shall have antici-  
 “ pated the time appointed for that dignity:  
 “ that is, if he be made a doctor before he shall  
 “ have *reigned* seven whole years in arts, or shall  
 “ have been so long a bachelor in medicine, he  
 “ shall pay double to the college, president, and  
 “ to the rest of the aforesaid college officers, to  
 “ that, which they are accustomed to pay, who  
 “ arrive at the appointed time, and with ma-  
 “ ture judgment, to the degree of doctor, ac-  
 “ cording to the commendable laws and customs  
 “ of our universities.”

It cannot but strike the most cursory observer,  
 that the means, and not the effects of educa-  
 tion, were alone consulted; that knowledge and  
 abilities were considered only as secondary ob-  
 jects in the fabrication of these by-laws; that  
 not



not even the strongest powers of mind, with the most solid acquirements, would have advanced the claim of any one to admission under them, whose education had been accomplished with frugality in colleges, where there are not only fewer temptations, to exceed the bounds of a moderate expenditure, than in the English universities, but in colleges where the unavoidable expence is considerably less, and where the period of graduation is not protracted, by any compulsory observance of merely ceremonious and unnecessary forms.

There is another by-law in the *Forma examinationum Sociorum et Candidatorum*, &c. in every copy prior to the printed copy of 1765, which tends likewise to prove, that there were circumstances under which other graduates, than those merely of Oxford and Cambridge, might occasionally obtain admission, after having been examined, into the order of candidates and of fellows: but in its specific object it displays so fastidious an attempt in the college, to assert and maintain, at all rates, their fancied superiority of the English universities, that it would seem to indicate the necessity of theatrical contrivance, even in examinations, most certainly, not intended to be farcical.

Could



Could it have become the gravity or dignity of a body of learned and of scientific men, sitting in solemn judgment on the abilities of others, who were to engage in occupations the most serious to mankind, the most important to human welfare and happiness, to enact, that “ \*if *the person to be*  
 “ *examined* shall have taken his degree in either of  
 “ *our universities*, he shall for the sake of honour *fit*  
 “ *to be examined decently*, lest the mother university  
 “ should seem to suffer any indignity from the  
 “ form of our examination.” Can it be admitted that the College of Physicians in London was ever designed to be a subordinate appendage to the Universities of Oxford and Cambridge, when the legislature itself establishes its independent superiority and controul in medical affairs? Could then such a form, for the motives assigned, fail to excite the ridicule of men of understanding?

There is in the statutes published in 1693, and in that copy only, another by-law, the sixteenth and last, which still more fully characterizes the temper of the graduates of the English universities in the College of Physicians, at that period.

“ \* We

\* Si Doctoris gradum in aliqua nostrarum academiarum susceperit honoris causa *sedeat, decenter examinandus*: ne quid indignum pati, a nostra examinationum forma, mater academia videatur.



“ \* We enact and ordain, that no surgeon nor  
 “ apothecary, nor *any other such artificer*, who has  
 “ ever exercised any less liberal art whatsoever,  
 “ or bound to servitude, has served his appren-  
 “ ticeship in a shop, be admitted into the order  
 “ of candidates or of fellows, lest, if such be  
 “ elected into the college, we should appear not  
 “ sufficiently to have consulted *our own dignity*,  
 “ or *the honour of the universities of this kingdom*,  
 “ which, however, we ought and are always dis-  
 “ posed to respect, with the utmost veneration.”

It appears somewhat extraordinary, that this by-law should exist in the same code of laws with that, to which this is so repugnant; with that, which tolerates the conditional admission of surgeons and apothecaries into the order of candidates, and consequently into the fellowship of the college.

The feuds and dissensions, which so extremely agitated the minds of medical men of almost all descriptions, above a century ago, were considerably aggravated by the jealous exertions of the physicians, to restrain, or to prevent altogether, the increasing influence of the apothecaries as medical practitioners. But if their right to  
 practise

\* See Appendix H.



practise, under the charter granted to them by James I. early in the last century, were not defined in explicit and decisive terms; yet the resistance of the physicians to the growing custom, among the apothecaries, of prescribing as well as of dispensing medicines, was productive only of continued animosity and warfare, which scarcely ended with the century itself. It was, probably, in contumelious resentment that the college established a by-law expressive of *their own opiniative superiority*, but which could never be justified by any dispassionate, liberal minded, or wise man. Much less could that statute in the proposed alterations of the committee of the college, already referred to, about the date 1768, \* which recommended the college, to “compel any one, who, having been a surgeon  
 “or apothecary, should apply for *permission* to  
 “practise, to *swear*, if the president and censors should think fit, that he had not maintained himself by either of those professions for  
 “two years before the time of his application.” The exaction of such an oath, without the pretext of utility, would have been as impolitic and indecent, as was *the vulgar outrage* of some of the licentiates the year before; an outrage which possibly instigated the college to illiberal retaliation.

There

\* See Appendix I.



There certainly is not a school more excellently calculated for the attainment of much of the most useful knowledge, than the shop of an intelligent apothecary. Besides a thorough proficiency in the peculiar business of investigating and judging of the comparative goodness of medicines, and of their various preparations and compositions; if a young man, in such a situation, be permitted to accompany his principal in his visits to patients, which in most instances is the case in the latter years of his apprenticeship, perhaps to visit for him, he commands the very best source of medical observation, information, and experience. He sees diseases at their commencement; he has it in his power to mark the progress of their symptoms, and, with examples before him, can more readily be taught to discriminate those symptoms, which characterize the nature of the disease, and which indicate the remedies appropriate to its cure. He anticipates the advantages of attending to the practice of hospitals. He is early trained to habits of thinking and conversing upon medical subjects, and is as it were grammatically instructed in pharmacy and its application. He is therefore initiated, by the best of all possible means, in a most essential branch of medical science; and is well prepared to con-

tinue



tinue his studies with advantage, “ *Cognitis enim  
“ principiis multo facilius extrema intelliguntur.*”

It cannot be doubted, notwithstanding the contumely, with which some men, who have not enjoyed its advantages, affect to treat such a plan of medical education; that young men so initiated, if well, though *privately*, educated, with equal talents for observation and with equal industry, cannot fail to become good practical physicians, earlier in life, than any men can, who, with the best academical education, are without that knowledge, which the apprentice of an experienced apothecary has the opportunity of acquiring.

It has been known, and that too of late years, that academical physicians, who have risen to eminence, have, even after they commenced the career of actual practice, nay even after their election as physicians to hospitals, been indebted to apothecaries for the knowledge of that essential branch of their profession, which can only be well acquired in the shops, and under the instruction of *such artificers*.

What is there to prevent a man of tolerable capacity and of determined application, from acquiring a respectable share of any branch of knowledge, that lies within the compass of hu-



man comprehension? What is there more peculiarly difficult in the science of physic to prevent the apprentice of an apothecary from becoming an able and honourable physician, than there is in the science of law, to prevent the clerk of an attorney from the future exercise of the functions of an advocate, or from acquiring the discernment and dignity of a judge? Surely not the accident of his not having taken a degree at Oxford or Cambridge.

The following circumstance proves, that graduation at Oxford or Cambridge was not insisted upon, as an essential preliminary to election into the fellowship of the College of Physicians, in 1575, above fifty years after the charter had been granted, and twenty posterior to the first establishment of an order of *Permissi*.

“ The college consisted at that time and before, of such as were favourers of popery, and were guilty of divers disorders.” The list of its members was presented to the privy council, with a string of complaints against the college, and with an earnest desire of reformation. One of the complaints was, “ that such as had gone beyond seas to take the degree of doctor, *because they would avoid the oath of supremacy* (ministered according to the statute of  
“ our



“ our own universities) had shortly, upon their  
 “ return, been admitted, *without any oath minis-*  
 “ *tered unto them*\*.” The objection of the crown  
 in this case, was, manifestly, not that they had  
 not graduated at Oxford or Cambridge, *but that*  
*the oath of supremacy* was eluded, whereby *Papists*  
 were admitted into the chief offices of an incor-  
 porated society.

Notwithstanding this proof, it is evident that  
 the object of the college, in fabricating their by-  
 laws of exclusion, has not only been perfectly dif-  
 ferent from that, which actuated the king and  
 parliament to grant their charter of incorpora-  
 tion; but that, in the very design and effect of  
 those by-laws, there is a palpable sacrifice of the  
 principle of that charter, to the aggrandizement  
 of the universities of England.

In 1713, it was enacted by the college†, “ since  
 “ that the permissi, or licentiates, *who have not*  
 “ *taken any degree*, or at least not any *in our uni-*  
 “ *versities*, enjoy the same liberty of practising in  
 “ London and seven miles round, with other  
 “ privileges and immunities, as well as the can-  
 “ didates and fellows, who are at great expences  
 “ in acquiring as well their doctor’s degree, as  
 “ other

\* Maitland’s Hist. of Lond. Fol. V. ii. p. 929.

† See Appendix K.



“ other degrees *in our universities*; we think it  
 “ just that they should pay to our college, at  
 “ least, equal sums with these: therefore, on ac-  
 “ count of the reasons before mentioned, and  
 “ that we may obviate *the just complaints upon this*  
 “ *subject*, frequently made to us *by our own aca-*  
 “ *demians*, we enact and ordain, that no licen-  
 “ tiate shall be admitted, in future, to practise  
 “ physic in this city, until he has first paid to the  
 “ treasurer of this college, *seventy pounds* of law-  
 “ ful money of Great Britain, and whatsoever  
 “ other sums may be due, according to the sta-  
 “ tutes of the college \*.”

By the statutes of 1647, and of 1687, published  
 in 1693, the number of fellows of the college  
 was limited to thirty †; beyond that determinate  
 number, the ordinary physicians of the king,  
 queen, and prince, were to be reckoned, and  
 admitted as *honorary physicians*. By the statutes of  
 1736, and 1752, the number of fellows was li-  
 mited to eighty; but in the printed statutes of  
 1765, there is no limitation of the kind men-  
 tioned.

By  
 \* April 24, 1718, a proposal made for the repeal of this  
 statute, was rejected. June 6, 1718, the repeal was voted 13  
 to 11, and at some future meeting of the college determined  
 upon.

† See p. 90 of the printed statutes of 1693.



By all the statutes *De Sociis*, prior to those of 1765, it was enacted, that “ \* no one should  
 “ be admitted into the society of the college,  
 “ who had not been, for an entire year, of the  
 “ number of candidates; unless he had publicly  
 “ lectured on medicine, in some university of  
 “ Britain, for three years; or had been a doc-  
 “ tor of the chair in some university of this  
 “ kingdom; or was the king’s physician in ordi-  
 “ nary.”

In 1702, thirteen fellows of the college, among whom were Sir Richard Blackmore, Dr. Tancred Robinson, Dr. Tyfon, &c. remonstrated with the college, upon the rigour and illiberality of their by-laws. They accused them “ by narrowing their  
 “ bottom, of keeping many worthy practitioners  
 “ of physic in the city, from entering into their  
 “ society, whereby their debts increased without  
 “ prospect of remedy; and their body diminished  
 “ without hopes of repair.”

In 1750, it was regularly proposed in the college, by some of the more liberal minded of the fellows, “ to bring in all such foreign graduates  
 “ as were properly qualified, on terms both ho-  
 “ nourable and beneficial to the college itself.”  
 It is asserted that “ the plan was well received  
 “ by

\* See Appendix L.



“ by several of the leading people in the college;  
 “ that it was agreed to in two *comitia* by a con-  
 “ siderable majority; but that in the third it  
 “ was rejected, as was supposed, through the  
 “ influence of the English universities\*.”

Notwithstanding the licentiates are said to have been neither active in promoting, nor in conducting this proposition, yet there, was very soon afterwards, another statute enacted, which, still more than ever, diminished their expectation of candid and reasonable treatment from the college. The *Statutum alterum De Candidatis*, made its first appearance among the statutes of 1752, two years after the proposition for admitting foreign graduates had been agitated in the college. It states,  
 “ † as the statute concerning candidates, that it  
 “ might be both consistent with itself, and with  
 “ the statute concerning fellows, clearly intended,  
 “ that no one should be admitted into the order  
 “ of candidates, who was not a doctor of physic of  
 “ either the University of Oxford or Cambridge,  
 “ although not so expressed in these very words:  
 “ lest any dispute should arise on this subject in  
 “ future, we enact and ordain, that no one shall  
 “ be admitted into the order of candidates, who  
 “ is

\* A Letter from a Physician in Town to his Friend in the Country, &c. 1753. p. 18, and following.

† See Appendix M.



“ is not a doctor of phyfic of either the Univerfity  
 “ of Oxford or of Cambridge.”

Now let it be remembered, that, by thofe very  
 ftatutes of 1752, it was already enacted, that,  
 “ No one fhould be admitted into the order of  
 “ candidates, who was not a doctor of phyfic, a  
 “ Briton by birth, and who had not practifed  
 “ phyfic for four years. That if he had taken  
 “ his degree in a foreign univerfity, he muft pof-  
 “ fefs and produce testimony of his incorpora-  
 “ tion, in either the Univerfity of Oxford or  
 “ Cambridge, prior to his examination\*.” Then  
 what could be the view of the *Statutum alterum*?  
 If it fimply meant to explain the intention of  
 the former ftatute concerning candidates, it was,  
 beyond all doubt, fuperfluous; for not any thing  
 could be more plainly expreffed, than the obli-  
 gation had already been, in the exifting laws, of  
 being incorporated to a doctor’s degree in phy-  
 fic in Oxford or Cambridge, prior to admiffion  
 into the order of candidates for the fellowship of  
 the College of Phyficians in London. If it were  
 intended to be any thing more than fimply an ex-  
 planatory ftatute, the object could not be any  
 other than to fanction, by a further ftretch of  
 power, a ftill more infidious encroachment upon  
 the fpirit and principle of that charter, which  
 alone

\* See p. 90, of this Pamphlet.



alone the college themselves acknowledge as the vital spring of all their corporate authority\* ; and the motive may be justly suspected, if the facts alledged on the subject be founded in truth.

It is asserted, that there were strong grounds for supposing, after the proposition for admitting foreign graduates, made in 1750, had been assented to in two *comitia* of the college, “ That  
 “ some, who were averse from that measure, wrote,  
 “ with great earnestness, for assistance from the  
 “ Universities of Oxford and Cambridge ; who  
 “ sent up persons to prevent the college from  
 “ asserting its independency, and acting with  
 “ that freedom which is its right. And that  
 “ they did this by voting against that measure,  
 “ and by procuring the interposition of *such an*  
 “ *influence* as few had resolution enough to op-  
 “ pose †.”

That the *Statutum alterum de Candidatis* was not only the offspring of this controversy, but that

\* Cum Regis Henrici octavi privata gratia & parlamenti Decretis fancitum sit, ut Collegium perpetuum *Doctorem* & *gravium Virorum* qui, &c. Visum est nobis Presidenti & Collegio, ut statuta quædam & ordinationes pro salubri gubernatione, &c. *secundam potestatem auctoritate prædicta concessam* faciamus. *Vide Statuta Collegii, &c.* 1765.

† Letter from a Phys. in Town to his Friend in the Country, 1753. p. 20.



that it intended more than it professed to signify, may be inferred from “ the compromise that  
 “ was made at the time by one of the universi-  
 “ ties; that, for the future, mandamus degrees  
 “ should be given to none but such as should be  
 “ recommended by the college: and that such  
 “ as the college, or any twelve fellows recom-  
 “ mended, should never be refused on payment  
 “ of the usual fees \*.” This inference appears confirmed, if we consider the increased difficulties that were thrown in the way of those foreign graduates, who might be desirous of admission into the college as candidates or fellows, by the subsequent statutes published by the college in 1765.

By those statutes †, “ Not any one can be ad-  
 “ mitted into the order of candidates, who is not  
 “ by birth entitled to all the rights of a British  
 “ subject, and who has not been created doctor  
 “ of physic in the University of Oxford or Cam-  
 “ bridge, after having accomplished all things  
 “ prescribed by its statutes, without unusual dis-  
 “ pensation or favour. But if he shall have gra-  
 “ duated as a doctor in the University of Dub-  
 “ lin, before he is proposed for election, he shall  
 “ produce to the register both letters testimonial  
 “ of

\* Letter from a Phys. in Town, &c. 1753. p. 20, 21.

† See Appendix N.



“ of his graduation in Dublin University, after  
 “ having performed all prescribed exercises,  
 “ without unusual dispensation or favour; and  
 “ likewise of his incorporation in one of the  
 “ universities of this kingdom. But not any were  
 “ to be elected into the order of candidates, by  
 “ virtue of any honorary or mandamus degree, or  
 “ of any degree obtained by extraordinary privi-  
 “ lege, in either of those universities.”

By the same statutes\*, “ Not any one can be  
 “ admitted into the order of fellows, who has  
 “ not been a candidate for a whole year, except  
 “ the king’s or queen’s ordinary physician with  
 “ salary; or a *regius* professor of medicine, in  
 “ the University of Oxford or Cambridge. But  
 “ if he be either the one or the other, he must  
 “ be entitled, by birth, to all the rights of a Bri-  
 “ tish subject, and have been created a doctor  
 “ of physic in either the University of Oxford  
 “ or Cambridge, after having accomplished all  
 “ things prescribed by its statutes, without un-  
 “ usual dispensation or favour; and if the king’s  
 “ or queen’s ordinary physician, or a *regius* pro-  
 “ fessor have taken his doctor’s degree in Dub-  
 “ lin University, he is to be subjected to the same  
 “ conditions of producing testimonials as are  
 “ decreed for admission into the order of candi-  
 “ dates,

\* See Appendix O.



“ dates, with the same exception to mandamus  
 “ or honorary degrees, or degrees of privilege.”

The humiliating tenour of expression, which, in former statutes, ran through all the prescribed qualifications of the licentiates, is in these statutes considerably modified. But though the acknowledgment as to merit is more liberally expressed, yet is the effect, as to reward, even more limited than before. It is granted, “ That there are  
 “ many in the city and suburbs qualified both in  
 “ knowledge and morals for practising physic.” But it is asserted, that “ the *statutes of the college*  
 “ forbid their election into the order of candi-  
 “ dates or of fellows\*.” Can there possibly be a better criterion, a more striking proof of the extreme impropriety and injustice of such statutes? The opprobrious contest between the licentiates and the college, in 1767, occasioned likewise a proposal for rescinding this statute, and for substituting for it one, very similar to the ancient one, stating that many in the city and suburbs practised physic, whom the college thought entirely disqualified for election into the number of candidates or of fellows, either because they were not Britons by birth, or were not

\* “ Complures autem in urbe & circuitu prædictis reperiuntur, tam *scientia quam moribus idonei*, qui medicinæ facultatem exerceant; quos tamen in Candidatorum vel Sociorum ordinem cooptari vetant *Statuta nostra.*” P. 42.



not graduates of Oxford, Cambridge, or *Dublin* Universities ; or were not sufficiently learned, or not advanced sufficiently in years, and yet might contribute to the health of mankind, at least in some cures, &c. and such, after due examinations, were to be permitted to practise, *vel in omnibus morbis vel in nonnullis solummodo curationibus, quamdiu se bene gesserint* \*.

There must have been some reason for the partiality shown to the graduates of the University of Dublin, in the college statutes of 1765, and in this statute subsequently proposed. It is now nearly thirty years since the promulgation of the former, and not much less since the proposal of the latter ; but whatever degrees *in physic* it may have been customary to confer in Trinity College, Dublin, for thirty years past, there certainly has not been yet ten years established, in that college, any thing like a regular and systematical school of physic. Almost every physician that has risen to eminence as a practitioner *in physic* in Ireland, I believe all the present professors, in the different branches of medical science in Dublin University, received the better part of their medical education, and took their doctor's degrees in physic, in the University of Edinburgh.

If

\* Alterations in the present statutes proposed, &c. p. 15, 16.



If then there were not any peculiar advantages to be derived by any medical student, in his immediate professional pursuits, either in the universities of England or in that of Dublin, when these statutes were determined on and enacted, there must have been some other reason, than the pretence of a better opportunity of acquiring medical knowledge in those universities, as well for exacting from physicians a document of graduation as doctors, after the full performance of prescribed duties at Oxford or Cambridge, prior to admitting them into the College of Physicians in London: as for the decided and marked preference offered to the graduates of Dublin University, both by receiving them in the universities of England, *ad eundem gradum*, and at the College of Physicians in London, into the order of candidates, upon the mere ground of *their ceremonious admission* at Oxford or Cambridge.

If we consider the statutes, which were enacted to amerce those admitted into the college, after having quitted the Universities of Oxford and Cambridge, to take their degrees earlier in other universities\* than could be done in those, it might appear at first sight, that the passing of a given period in studious probation was the essential requisite expected by the college of London.

The

\* See p. 92, 93, of this Pamphlet,



The usage of Trinity College Dublin, is very similar to that of the English Universities, as to the periods of taking degrees: and had the college adopted any regulation, which had established some uniform and determinate period of probation, the semblance of reasonableness might have been traced in the exaction. But surely there is neither the shadow of wisdom, nor of public utility, in compelling every student of physic to reside and graduate in one of two universities only, under the penalty of proscription from all the rank, and fair pretensions, which his acquirements may entitle him to—especially in universities, which are notoriously defective in the means of medical improvement.

It must have been perceived that any exaction, which had reference to the time alone, unconnected with the place of study, would neither have promoted the view of local aggrandizement, nor could have been reconciled to the distinct usages of the universities of England, when the statutes of the college of London were made public. There was then an actual difference of full three years, in the time demanded for taking a doctor's degree in one university and the other: and upon the principle of objecting to those, who hurried to a degree, the graduates of Oxford might as well have excluded the graduates



duates of Cambridge from the College of Physicians, as both, in conjunction, the graduates of any foreign university. For until that difference of time was compounded, by shortening the period required at Oxford, it was a plan frequently adopted by gentlemen, to watch their opportunities of preferment in the University of Oxford, for two or three years, and if not then successful, and they determined to enter upon the profession of Physic, to get admitted into the University of Cambridge, with an allowance of all the nominal time they had studied in Oxford; and to take their doctor's degree at the completion of eleven years, which at Oxford would have required fourteen. I have been informed that there are several instances of the prudential observance of such an economy of time, among the present fellows of the College of Physicians. They possibly might have occupied the whole of their time with a view to the profession of physic; although, in the English universities, very few engage in the pursuit of any particular profession, until several years after matriculation. The statutes of the University of Oxford do not require any student to determine upon a profession until he has taken his bachelor's degree in arts, which subtracts four years from the eleven demanded for a doctor's degree in physic.



From this circumstance two very evident conclusions are deducible. The one, that seven years study is considered by the College of Physicians as fully adequate for all the *professional* acquirements of a physician. The other, that the penal statutes\* against those, who were admitted by the college, after they had quitted the Universities of Oxford and Cambridge, to accomplish an early graduation in other universities, were not founded on the principle they profess; for the statutes of the University of Cambridge exacted then three years less than those of the University of Oxford, and many, who have spent twice eleven years in the pursuit and in the actual practice of physic, are still excluded from the college, and denied all title to admission.

If we consider, for a moment, the fact as to the time, which the English universities require for a doctor's degree in physic, it will appear, that there is an ostentatious display of a long period of study, which, perhaps, not any graduate has ever accomplished, and which all have it in their power excessively to abate.

The degree of doctor of physic may be now taken, at Oxford, in eleven years from the time of matricula-

\* See p. 92, 93, of this pamphlet.



matriculation; but there are progressive honours to be achieved, before the degree of doctor can be conferred. Such are the degree of bachelor in arts obtainable in four years; that of master of arts in three years more; that of bachelor in physic in one year afterwards: and three years subsequent to this is the period for taking the degree of doctor in physic.

At Oxford, there are four terms in each academical year, which together make, according to their specification in the statute books, about thirty-two weeks, the remainder of the solar year constitutes the vacations; of the whole of the eleven solar years, therefore, which must necessarily pass away before the student in physic can arrive at doctoral honours, there are but little more than six years and three quarters to be reckoned as the time required of him by the university: for the eleven academical years, or forty-four terms, comprise a period of less than seven years. This, certainly, could not be considered as a contemptible proportion of the whole apparent time, provided so much were really employed at the university, and in actual application. This, however, is by no means the case, for residence at the university is dispensed with, after the prescribed exercises have been performed for the degree of



master of arts \*: the student in physic, therefore, when he has accomplished that degree, has only to go thither at the stated periods, for a day perhaps, to receive the academical honours in his peculiar faculty.

Thus the eleven years exacted for the attainment of a doctor's degree in physic, appears to amount only to the seven academical years of residence professedly required for a master's degree in arts: and if those seven years, or twenty-eight terms, were *bonâ fide* to be kept to their fullest extent, they would not comprise a period of four years and a half of actual time of residence; consequently the whole period of local study for a doctor's degree in physic, at Oxford, nominally eleven years, proves to be, in fact, not even four years and a half; and this calculation is made under the idea of a more scrupulous exactness in keeping terms, than is ever attended to.

The

\* Quod si quis Exercitia ad Gradum Magistralem requisita præstiterit, & reliquum temporis spatium in bonarum literarum studio posuerit in alia quacunque Academia, licebit ei tempus id omne imputari, ac si in hac ipsa Academia fuisset insumptum: Constet id modo, ac testatum sit sub Sigillo Academiae in qua se studuisse profitetur, aut alioqui Testimonio fide digno. *Parecb. sive Excerpt. e corpore Statutor. Univ. Ox.*  
p. 34.



The statutes of the university dispense with two terms of residence in standing for a bachelor's degree in arts, and with three more in standing for that of a master of arts \*: there are few instances in which students do not avail themselves, to the fullest extent of this dispensation. Admitting then four years and a half to be the whole of the time of residence, that is ever actually observed for the degree of master of arts, if we deduct the five terms dispensed with by the university statutes, then is the actual time of local study still greatly reduced, and may be estimated at the utmost to be three years and a half. If we take into consideration, likewise, that the terms of matriculating and of graduating are always reckoned, although, perhaps, not more than a day of either be spent in the university for the purpose ; and that students, so far from residing through any entire term, are seldom at the university until after the commencement, and as seldom remain there until the end of the term †, it

\* Pro absentia Terminorum duorum, si Gradum Baccalaurei in Artibus ambiat quis ; trium, si Gradum Magistralem. *Parecb. sive excerpt. e corpore Statutor. Univ. Ox. p. 107.*

† Quoniam haud pauci singulis Terminis, unum aut alterum Diem in Universitate commorantes, Officio suo & Statutis satisfecisse, & vel sic Terminos ad Gradum requisitos complevisse se putant ; Statutum est, quod nemo Terminos ad Gradum suum requisitos complevisse reputandus sit, nisi qui singulis Terminis,  
Michaelis



it may be safely asserted, that in but few instances do students reside in the University of Oxford, for more than three years out of the professed eleven, to obtain, honourably, the degree of doctor of physic.

The period of residence, indeed, is frequently further abridged than already described ; for, by adopting a method, which is allowed by some of the colleges, and which is known in the university by the expressive appellation of *Term trotting*, a student may systematically perform every exercise requisite for his degrees as a physician, and come forth into the world, at the end of eleven years, *egregie cordatus homo*, without having, in reality, resided and studied in the university, one complete year of the whole time.

Would any man, who had, in this compendious way, arrived at his doctorship in physic at

Michaelis & Hilarii, per integrum Mensē ; Termino autem Paschatis, per tres Septimanas ; Termino demum Trinitatis, per duas Septimanas, in Universitate commoratus fuerit, & Exercitia, juxta Statuta, ibidem frequentaverit. Excepto *semper* Termino, in quo quis Gradum susceptorus est, cujus primus dies, juxta receptam antiquitus consuetudinem, habetur pro Termino completo. Excepto etiam Termino, in quo quis primum ad Academiam accedens Matriculatur, cujus ultimus dies pro integro Termino reputatur. *Parecb. sive Excerpt. e corpore Statutor. Univ. Ox. p. 59, 60.*



at Oxford, be refused admission into the College of Physicians, with all the rights of the fellowship, if, when examined there, he should be found *satis doctus & probus*? If not, then is the exclusion of others, who, in *actual* study, have completed a period of more than the utmost extent of years *demanded* by the university of Oxford, and who are ready to submit to any equal test of probation at the College of Physicians, with the graduates of that, or of any other university, not merely illegal as has been demonstrated, but irreconcilable with any liberal principle. That it originated in the narrow spirit of monopoly, there cannot remain a doubt; nor can it be doubted, that the privilege of continuing it is insisted upon, more from the pertinacity arising from long possession, than from any confidence in its equity, or in the stability of its tenure.

It was proposed in the college, in 1720, to take under consideration a statute relating to honorary fellows, with a view to admit such as had been regularly educated in foreign universities into that order, and to distinguish them from *licentiates, who had not obtained degrees*. In 1721, at their *Comitia majora ordinaria* in June, the college, with the *professed* design of establishing a criterion, by which might be distinguished the learned



learned from the unlearned of those physicians, whose peculiar felicity it had never been to study in, and to be acknowledged by either of the universities of England, unanimously determined to receive an order of *honorary fellows* \*.

Their motives for this, and the circumstances, under which the order was to be established, were expressed in the following statute for that purpose.

\* “ It was indeed prudently and justly decreed  
 “ by our ancestors, that those, who had received  
 “ the highest honours from the Universities of this  
 “ kingdom of England, should also enjoy parti-  
 “ cular privileges in the college, and obtain a  
 “ place under the name of Fellows. But that  
 “ they might not appear inattentive to the public  
 “ good, they admitted many to practise, who  
 “ were reputed unfit to be adopted into the  
 “ number of fellows, either because they had  
 “ not taken a doctor’s degree, or were not suffi-  
 “ ciently learned, or for other similar causes,  
 “ and yet might be able to serve the public and  
 “ assist mankind, at least in some cures.

“ When

\* Such an order had existed before, as may be seen by the list of members of the college in their Pharmacopœia of 1677.

† See Appendix P.



“ When they had established this kind of au-  
 “ thority of the college, without neglecting the  
 “ public advantage, they proceeded still further  
 “ in consulting the dignity of the faculty, and  
 “ they judged that nothing could be more just  
 “ than that those, who had done honour to,  
 “ should themselves receive due honours from,  
 “ the faculty of physick. With this view they  
 “ created an order of honorary fellows, into  
 “ which were to be received those, who were  
 “ liberally educated, and who were known to be  
 “ men of learning and of probity.

“ We, approving entirely this institution, and  
 “ desirous that the *ambition of the unskilful* should in  
 “ future be more particularly guarded against,  
 “ enact and ordain, that no one be admitted an  
 “ *honorary fellow*, who has not taken a doctor’s  
 “ degree in *some university*. With respect to  
 “ morals and other circumstances requirable in  
 “ an honorary fellow, we leave those entirely to  
 “ the judgment of the fellows, that they may de-  
 “ termine upon every petition in the *comitia ma-*  
 “ *jora*, according as it shall appear proper, before  
 “ the petitioners are admitted to examination.  
 “ We moreover will, that every honorary fellow  
 “ be examined at least *once* by the president and  
 “ censors, that they may assure the fellows of his  
 “ learning.

“ It



“ It is further decreed, that at the time of  
 “ admission every one shall pay to the treasurer,  
 “ for the use of the college, *one hundred pounds*  
 “ of lawful money of Great Britain, *besides the*  
 “ *usual payments to the president, censors, treasurer,*  
 “ *register, and beadle,* due according to the statutes,  
 “ *and the necessary expence for a diploma.* And  
 “ finally, having subscribed his name, he shall  
 “ promise that he will diligently observe all the  
 “ statutes, which are to be read through to the  
 “ honorary fellows before admission, or that he  
 “ will willingly pay the fines inflicted for non-  
 “ observance.”

There is great reason to believe, that the *professed* and *real view* of this statute were very different. The integrity of its declared motive, the conferring honour on meritorious practitioners, may unquestionably be suspected, from the enormous demand made by the college for the purchase of that honour. To distinguish those, who had been regularly educated as physicians in foreign universities from the *licentiates, who had not taken a degree*, or to curb still more rigidly the ambition of the unskilful, was palpably a pretence; for the license of the college conferred not any degree. Those, who had not previously graduated were never dignified in the college catalogues with the title of Doctor. Admission under this statute,



statute, as an honorary fellow, was not any real proof and criterion of superior learning; for he very licentiates, those *minus docti*, capable of curing some diseases only, who were by this statute to be still further stigmatized by an odious implication of inferiority, had already given a better proof of learning than was to be demanded from these honorary fellows, for they had sustained a *threefold* scrutiny of their knowledge and acquirements, having been subjected to *three* examinations; while *one* was considered sufficient to ascertain the competency of the *hundred pound candidates*.

If the fair truth had been divulged, it would in all likelihood have appeared, that the pecuniary necessities of the college had their share in stimulating them to this public display of their liberality and candour. It is at least rendered probable, that their wish was to obtain a considerable number of such *honorary members*; for the statute itself was immediately followed by a letter to the two universities, acknowledging that, among them, an academical education was reckoned of *the utmost consequence*; therefore those, whom the universities had dignified with honours, were received into *the College of Physicians*, as kindred and associates, with less difficulty, and



and *at expences* considerably less than formerly. But they now requested them not to confer any degrees in physic for the future on those, who had not fully completed their time and studies there\*. By this endeavour to impede the usual course of dispensation and favour at the universities of England, many might be driven to take degrees abroad, to whom it might have been inconvenient to wait the greatly protracted time for graduation in the universities of England. And such might willingly embrace the favourable opportunity, on their return, of purchasing an honorary fellowship of the College of Physicians, rather than suffer the imputation of implied deficiency in learning and in skill.

The statute for the admission of honorary fellows was repealed in five years after it had been enacted†. Notwithstanding the repeal of this statute, which had opened a *convenient* door for the *wealthy* to a degree of *nominal* dignity as physicians, which any abilities they might have possessed would never have procured them; yet the college

\* See Appendix Q.

† At the *comitia majora ordinaria* of the college in December 1725, it was proposed that this statute should be repealed in consequence of the disputes, which had been occasioned by it. The repeal was agreed to, and in January 1726 a second time; and in April 1726 finally.



college did not lose, altogether, their solicitude for conferring a distinguishing mark of favour on those, who might particularly deserve their kindness.

\* In the printed statutes of 1765, we find, “ If  
 “ any one, having applied himself to study for  
 “ four years in any university, had taken a de-  
 “ gree in medicine, and should appear worthy of  
 “ the peculiar favour of the college, that it  
 “ should be allowable, after he had been three  
 “ years of the number of licentiates, to elect him  
 “ into the order of candidates. This was to be  
 “ done by a majority of the fellows present at  
 “ the *Comitia majora ordinaria*, held the day after  
 “ Michaelmas-day, provided the election were  
 “ sanctioned by *twenty suffrages* received by pri-  
 “ vate ballot, and not any *other statutes* of the  
 “ college rendered him ineligible to the benefit.”  
 In the alterations of the statutes proposed by a  
 committee of the college, about 1768, “ † It was  
 “ recommended to render it allowable for any  
 “ fellow of the college, to propose any one to be  
 “ examined, of thirty years of age, who had  
 “ taken his degree, after having pursued the  
 “ study of physic for three years in any univer-  
 “ sity; provided that either the University of  
 “ Oxford or Cambridge, had by *especial favour*  
 “ dignified

\* See Appendix R.

† See Appendix S.



“ dignified him with the degree of doctor of  
 “ phyfic likewise. But he was to be proposed at  
 “ the *Comitia majora*, held the day after Michael-  
 “ mas-day, and then only ; and if assented to by  
 “ a majority of fellows present, he was to be  
 “ examined three times, so that his third exami-  
 “ nation should be at the *Comitia majora*, held the  
 “ day after Michaelmas-day, in the following  
 “ year. If approved in every examination, he  
 “ was to be proposed immediately by the presi-  
 “ dent for election into the number of candi-  
 “ dates, and if two thirds of the fellows present  
 “ assented, he was to be admitted, provided  
 “ neither the law of the land, *nor any other statute*  
 “ *of the College* disqualified him from receiving  
 “ that advantage.”

Some few years ago a custom was established  
 in the college of allowing the president, for the  
 time being, to recommend, annually, two of the  
 licentiates, for election into the fellowship. The  
 privilege had not been very long enjoyed, before  
 the college conceived it to be too extensive.  
 They, therefore, deprived the president of a  
 moiety of his new prerogative, and confined him  
 to the recommendation of one licentiate, only, in  
 the year. This diminished indulgence, in its  
 turn, appeared too great, and it was lessened to  
 the power of recommending one, only, in two  
 years.



years. There are many of the licentiates, who, from a total disapprobation of such a plan of admission, would rejoice at its being abolished, from a conviction, that the only legal and the only just medium of admission, to the fellowship of the college, is a candid and equal examination of the learning and professional abilities of all physicians, who should either propose themselves, or be proposed for election.

It is worthy to be remarked, however, that not any licentiate, who has been honoured with the recommendation of the president, and with so distinguished a mark of the approbation of the college as admission in consequence, has ever been considered so defective in learning, or in medical knowledge and skill, as to render his being examined again necessary, notwithstanding in the election of some of them, their admission has been opposed by a number of the fellows of the college, nearly equal to the number of those who, *from being anxiously solicited*, have voted in their favour.

There is, indeed, another statute in the printed copy of 1765, which manifestly implies that the test of learning, and medical information, given by a licentiate, is such, as indisputably qualifies him for the most distinguished honours in the



the college. “ No one shall be admitted into  
 “ the order of candidates who shall not first  
 “ have been examined according to the form  
 “ presently to be described, *unless he be of the num-*  
 “ *ber of licentiates* \*.” Still the admission was to  
 be *speciali gratia*. It was a kind of medium of  
 incorporation to the fellowship of the college,  
 substituted for the abolished privilege of being  
 incorporated in the universities.

Is there a man, who has ever been admitted  
 into the fellowship of the college *speciali gratia*,  
 who, considering the circumstances of his ad-  
 mission, can truly say, that he himself estimates  
 it as an honourable accession to his character?  
 I know there are some, who, if they have sensi-  
 bility as men, in any proportion to their genuine  
 merit as physicians, will feel themselves but little  
 elated by such an admission.

Men, who delight in the science, contemplate  
 the *trade* of physic with abhorrence. They ob-  
 serve with pity and disgust, the meanness of con-  
 duct, the distrust and ill-will, which frequently  
 arise from jealousy even among practitioners, who  
 have but little to apprehend from competition:  
 and

\* Nemo, nisi in permissorum numerum fuerit, in Candidato-  
 rum ordinem admittatur, qui non prius examinatus & appro-  
 batus fuerit secundum formam mox præscribendam. p. 31.



and it bespeaks but a limited acquaintance with the *politics of physic*, to be ignorant of the humiliating sacrifices, that are necessary to remove the difficulty of obtaining sufficient interest, in the college, for the election of a licentiate into the order of fellows, under the most powerful recommendations. The narrowness and illiberality of the by-laws of the college seem to have communicated to those, who have been from time to time interested in their continuance, an unconquerable aversion from every effort in the licentiates to obtain a reasonable redress of their grievances: an aversion, which the most candid appeals cannot induce them to moderate, notwithstanding the rigorous exercise of their authority has been the frequent source of remonstrance from even some of their own number, and of public admonition from men of the highest official situations in the law.

In 1688, the college was admonished by Lord Chancellor Jeffries.—A little prior to the year 1700, a petition was preferred to the Lord Chancellor Somers, and to the judges, by several fellows of the college, complaining “ That a prevailing party of the college had combined together in a *fraudulent and surreptitious manner*, “ and made illegal statutes and by-laws, and annexed rigorous penalties, &c.”—In 1702, as already stated, they were accused by Sir Richard

K

Blackmore,



Blackmore, Dr. Tyfon, and others, “ of narrow-  
 “ ing their bottom, and thereby excluding many  
 “ worthy practitioners of phyfic in the city, from  
 “ their fociety.”—And in 1768, they were cau-  
 tioned by Lord Mansfield, “ againſt *narrowing*  
 “ their grounds of admiſſion ſo much, that if  
 “ even a Boerhaave ſhould be reſident here, he  
 “ could not be admitted into their fellowship\*.”  
 And his lordſhip ſaid upon the *ſame* occaſion, “ I  
 “ would recommend it to *the college*, to take the  
 “ beſt advice in *reviewing* their ſtatutes; and to  
 “ attend *to the deſign and intention of the crown and*  
 “ *parliament in their institution*. I ſee a ſource of  
 “ great diſpute and litigation in them, as they  
 “ now ſtand: there has not, as it ſhould ſeem,  
 “ been due conſideration had of the charter, or  
 “ legal advice taken in forming them†;” a hint  
 which he repeated in 1771. Theſe latter admo-  
 nitions, eſpecially, were ſerious and important;  
 But what was the reſult of them? A new ſta-  
 tute, which pointed out a road for the licentiates  
 to the college, but its gates were impenetrably  
 barred.

“ ‡ We enact and ordain, (ſays the ſtatute) that  
 “ if any one ſhall have been ſeven whole years  
 “ of the number of thoſe, who have been ad-  
 “ mitted

\* Rex v. Dr. Aſkew & al’. *Bur. Rep. V. iv. p. 2191.*

† Ibid. p. 2198.

‡ See Appendix T.



“ mitted by our college to practise physic in  
 “ London, and seven miles round, and shall have  
 “ completed his thirty-sixth year; it shall be al-  
 “ lowable for any one of the fellows to propose  
 “ him, for examination, at the *Comitia majora*  
 “ *ordinaria* held the day after Michaelmas-day;  
 “ if the majority of the fellows present assent  
 “ to it, he shall be examined (according to the  
 “ under-mentioned form) at the three following  
 “ ordinary *comitia majora* by the president or  
 “ vice president, and censors; and if at each  
 “ examination he shall be approved by a ma-  
 “ jority of the fellows present at those *Comitia*, he  
 “ may be proposed for admission into the order  
 “ of fellows, by the president or vice-president,  
 “ at the *comitia majora* immediately succeeding,  
 “ and if a majority of fellows then present as-  
 “ sent, he may be, as soon as convenient, ad-  
 “ mitted; if neither the law of the land, *nor any*  
 “ *statute of our college*, render him ineligible to  
 “ receive that favour.”

Thus, after a licentiate has given every re-  
 quisite proof of his being fully competent to prac-  
 tise physic, in all cases, as a physician, in three  
 distinct examinations at the college, to obtain a  
 license; and after he has added to his acquire-  
 ments seven years experience in actual practice;  
 it may *be allowable*, if he be 36 years of age, *to*



*propose him, upon one particular day* in the year. But his admission is not to be accomplished, until after three further examinations, twelve months fufpence, and the risk of *five diftinct ballots* : ballots that may poffibly be decided by caprice or refentment, as they are primarily and ultimately to be determined at general meetings of the fellows ; who, as individuals, are not bound by any oath to make a fair decifion ; and who have generally fhown themfelves indifferent, or under the influence of prejudice, in all concerns, of which the object is to promote the intereft of the licentiates, or to exalt their dignity.

It is afferted that a man may obtain his doctorfhip in phyfic, at Oxford or Cambridge, without being once recognifed as *a medical ftudent* in the univerfity, either before the period of his *determining for phyfic*, or during the intervals of his fubfequent degrees. Such a phyfician, wherefoever he may have acquired his knowledge, is admitted into the fellowfhip of the college of London, from the mere accident of local graduation, twelve months after he has paffed three examinations, which are *effentially* the fame, as every licentiate is fubjected to for permiffion to praétife. Can then any reasonable being, upon the principle of candour or moderation, juftify the conditions, under which admission to the fellowfhip



lowship is offered to licentiates by the statute above-stated? Yet, notwithstanding all the disadvantages and risk of so rigorous a by-law, an application has been made by a licentiate to be examined for a fellowship. It was proposed by a fellow of the college, that this gentleman should be admitted to examination according to the statute, but even the ballot for his examination was refused, as I am informed by himself; after every artifice had been exerted by some of the college, to intimidate him from his purpose of making the application.

Is this like the equitable conduct suggested by Lord Mansfield, when he pointed out to the college the necessity of revising their statutes, and of rendering them conformable to the intention of the crown and parliament, in granting their charter? Allow that their indignation might have been roused by reiterated opposition; shall the plea of vindictive resentment be, for ever, an excuse for the oppressive measures of an incorporated society? For the public measures of a society, whose boasted pre-eminence is founded only on a presumed superiority of learning? For the measures of men, who, while they stigmatize others with the imputation of ignorance and illiberal conduct, are not themselves untainted



tainted with the leaven, which they profess so scornfully to reject, nor do they display, in their corporate proceedings, any proof of that enlargement of sentiment, which is the only true characteristic of the high cultivation of ingenuous minds? That their proceedings have not a nearer alliance with justice, than with reason, may be clearly inferred from the declared opinions of men most eminently learned in the law.

“ If it be true (*said Lord Mansfield*) that there  
 “ are some amongst the licentiates unfit to be re-  
 “ ceived into any society, it is a breach of trust  
 “ in the college to license persons altogether  
 “ unfit.—It has been said, that there are many  
 “ amongst the licentiates, who would do honour  
 “ to the college, or any society of which they  
 “ should be members, by their skill and learning,  
 “ as well as other valuable and amiable qualities,  
 “ and that the college themselves, as well as every  
 “ body else, are sensible that this is in fact true  
 “ and undeniable. If this be so, how can any  
 “ by-laws, which exclude the possibility of ad-  
 “ mitting such persons into the college, stand  
 “ with the trust reposed in them, of admitting  
 “ all that are fit? If their by-laws *interfere* with  
 “ their exercising their own judgment, or *prevent*  
 “ them from receiving into their body *persons*  
 “ *known,*



“ *known*, or thought by them to be really fit and  
 “ qualified, such by-laws require regulation \*.”

We have seen, however, that the college in the first statute *de permissis*, in the copy printed in 1765, acknowledge that there are many in the city and suburbs, qualified both by their learning and morals to practise physic, whom *their statutes forbid* them to admit into the order of candidates or of fellows. The statute to be substituted for this, in the proposed alterations of the committee †, was not less narrow than that of the most barbarous period in the history of the college. Then do not all such statutes *interfere* with their exercising their own judgment? Do not such statutes *prevent* them from receiving into their body *persons known* by them to be really fit and qualified? And ought not all such statutes to be regulated?

In 1768, Lord Mansfield said, “ I think that  
 “ every person of proper education, requisite  
 “ learning and skill, and possessed of all other  
 “ due qualifications, is intitled to have a license:  
 “ and I think that he ought, if he desires it, to  
 “ be admitted into the college ‡,” *and again*;  
 “ Nothing

\* Rex v. Dr. Askew & al'. *Bur. Rep. V. iv. p. 2199.*

† About the year 1768.

‡ Rex v. Dr. Askew & al'. *Bur. Rep. V. iv. p. 2202.*



“ Nothing can make a man a fellow of the col-  
 “ lege without the act of the college. The first  
 “ act to be done, by them, is their judging of the  
 “ qualifications of the candidate. The admis-  
 “ sion, into the fellowship, is an act subsequent to  
 “ that—The main end of the corporation is to  
 “ keep up the succession, and it was to be kept  
 “ up by the admission of fellows after examina-  
 “ tion. The power of examining, and of ad-  
 “ mitting after examination, was not an arbi-  
 “ trary power, but a power coupled with a trust.  
 “ They are bound to admit every person, whom,  
 “ upon examination, they think to be fit to be  
 “ admitted within the description of the charter,  
 “ and the act of parliament which confirms it.  
 “ The person, who comes within that descrip-  
 “ tion, has a right to be admitted into the fel-  
 “ lowship. He has a claim to several exemp-  
 “ tions, privileges, and advantages, attendant  
 “ upon admission into the fellowship: and not  
 “ only the candidate himself, if found fit, has a  
 “ personal right, but the public has also a right  
 “ to his service, and that not only as a physician,  
 “ but as a censor, an elect, as an officer in the  
 “ offices to which he will, upon admission, be-  
 “ come eligible \*.”

Can there, possibly, be given an opinion more  
decisive

\* *Rex v. Dr. Askew & al'. Bur. Rep. V. iv. p. 2196.*



decisive than this? Can an opinion stand upon better authority? It is upon the same authority asserted, “ that licences probably took their rise  
 “ from that *illegal* by-law, now at an end, which  
 “ restrained the number of fellows to twenty.  
 “ This was arbitrary and unjustifiable. They  
 “ were obliged to admit all such as came within  
 “ the terms of the charter \*. *And still further ;*  
 “ There can be little doubt that the college are  
 “ obliged, in conformity to the trust and con-  
 “ fidence reposed in them, by the crown and the  
 “ public, to admit all that are fit, and to reject  
 “ all that are unfit. But their conduct in the  
 “ exercise of the trust thus committed to them,  
 “ ought to be fair, candid, and unprejudiced :  
 “ not arbitrary, capricious, or biased, much less  
 “ warped by prejudice or personal dislike †.”

If there had not been any other evidence, than that the by-laws of the college have been, frequently, the subject of doubt, dispute, and animadversion, it would be, upon that ground alone, fair to suspect that they have not been framed with impartiality.

But it has been rendered clear, that a monopoly of the privileges of the College of Physicians,

\* *Rex v. Dr. Askew, & al'. Bur. Rep. Vol. iv. p. 2197, 2198.*

† *Ibid. p. 2188, 2189.*



Physicians, by the graduates of Oxford and Cambridge, was not originally intended. That it is not at any time legal is well established likewise, upon the authority of Lord Mansfield. If it were necessary to enforce the opinion of one of the first lawyers, that ever sat in judgment in an English court of judicature, it is particularly strengthened by that of Judge Aston, who sat with Lord Mansfield on the bench, when the opinions, which I have quoted, were given. “ With all the inspection I have used,” (*said Judge Aston*) “ from the first charter, to Queen Mary, “ I cannot find any distinction made between “ the members of this corporation. How it “ crept in afterwards might be difficult to account for, but the granting temporary, and partial licenses, upon which so much stress has been laid, will not, in my opinion, impugn the ancient usage; for we see in different periods a most manifest alteration, and the words quite different in the manner of admission; until about an hundred years ago, they arbitrarily reduced it to the certainty, which has since obtained, which, questionless, owes its foundation to an illegal act in the college itself, by arrogating a power to admit or refuse at their own free will. Whereas they are obliged to admit persons, who have proved their abilities,



“ abilities, it being for the good of the commu-  
 “ nity \*.”

The right of prescription was much insisted upon by the advocates for the college ; but Mr. Justice Yates observed, “ that usage only applies where the construction is doubtful, here  
 “ the construction is not doubtful, if it were,  
 “ then indeed usage for two hundred years  
 “ might have weight †.”

It is asserted then upon the highest legal authority, that the College of Physicians are unwarranted in making by-laws, which infringe  
 “ the design and intention of the crown and par-  
 “ liament in their institution ;” and it has been proved that the by-laws, which exclude all graduates but those of Oxford and Cambridge from the fellowship of the college, without any investigation of their competency and fitness, are founded in usurpation ; an usurpation which cannot be justified by any possible construction of the charter, or acts confirming it. It is therefore demonstrated that such by-laws are illegal, and that they may be annulled, and their pernicious consequences abolished.

The

\* Transcribed *verbatim* from the MS. Notes of a deceased Barrister.

† Rex v. Dr. Askew. *Bur. Rep. V. iv. p. 2200.*



The litigations between the college and various persons practising physic in London and seven miles round, from the reign of Elizabeth to the present reign, have been chiefly of three kinds, and almost all were originally and commendably begun at the suit of the college.

The first, to interdict such persons the right of practising as had not been examined and admitted, in which the college were always successful, even in opposition to the plea of exclusive privilege in the graduates of Oxford and Cambridge. Need there a stronger argument be urged to prove, that it was never intended to give the graduates of those universities exclusive, or even peculiar rights in the College of Physicians? The second, to punish persons found guilty of *mala praxis*, several of whom were admitted physicians; and the third, to repress empirics and empiricism.

These are the legal purposes, for which the privilege was conceded to the college of making by-laws; in these instances were legally and fairly exercised, the *gubernatio, supervisus & correctio collegii & omnium hominum medicinam exercentium*, &c. But it is illegally exercised, when that government is stretched to exclude the able and the wise from the corporate advantages of the college; or to prohibit



prohibit even the ignorant from the right of a fair investigation of their abilities.

In 1771, Dr. Archer and Dr. Fothergill contested this privilege, which the college have assumed, and if the original intention of the charter, and acts of parliament pertaining to the college were decisively to admit all persons, who, upon examination, should be found unquestionably qualified; if there can be no doubt of the fact, that the right of discretionary exclusion was never granted to the college, and that therefore the usurpation of it is illegal, and the right not tenable; it is natural to ask, how it happened that Dr. Archer and Dr. Fothergill, who had been examined and approved, and who were qualified in every respect for admission, were defeated in the cause which they maintained? The answer is obvious, that they were misguided, and that they pursued the wrong grounds of claim; for they claimed admission into the college as fellows, under the very by-law which admitted them to practise as licentiates; claiming from their license the privileges of the fellowship.

Upon this point all the judges were unanimous, and Judge Aston, Willes, and Ashurst, determined with Lord Mansfield, that be “ the  
“ by-law, good or bad, the right of admission  
“ was



“ was claimed under it. It would be a most  
 “ unreasonable thing, to accept this license un-  
 “ der the by-laws, and yet to treat those by-  
 “ laws as null and void ; to turn this license, so  
 “ accepted, against the persons from whom it  
 “ was thus accepted, and to set it up as the  
 “ foundation of a right to be admitted under the  
 “ charter \*.”

This reasoning, whilst it carries conviction along with it, determines the claim to be not under the license already obtained, nor under the by-laws, which relate to the permission of licentiates to practise ; but under the charter of incorporation itself, on the broad basis of individual qualification ; without the least regard to places of study or to local graduation.

The protection of merit, wheresoever reared or wheresoever cultivated, involuntarily presses itself upon the unbiaſſed and unprejudiced mind, as the eſpecial and peculiar province of all ſocieties of men, whoſe profeſſed object is the promotion of learning and of ſcience. It is to be lamented, that ſuch protection ſo ſeldom engages the conſideration of ſocieties incorporated, almoſt ſolely, for that purpoſe. We too often diſcover in them, that the influence of vanity or of intereſt ex-  
 tinguishes

\* *Rex v. Coll. of Phyſ. Bur. Rep. V. v. p. 2761.*



tinguishes in the mind every sense of social obligation; and chills the hearts of men to a cold indifference for the prosperity of every one, whose advancement contributes not to their own ideal importance, or positive aggrandizement.

It is well known how much the world has been indebted to the fostering care of Sir George Ent, for an acquaintance with the labours of the immortal Harvey. But his protection was that of a friend, not the official protection of a president of the College of Physicians. To whatsoever cause it may be attributed, Harvey complained that his practice considerably declined after the publication of his doctrine of the circulation\*.

The reader of the works of Sydenham cannot avoid to discover, that he likewise had powerful enemies, notwithstanding the protection of his eminent friends Dr. Coxe, Dr. Needham, Dr. Mapletoft, Dr. Goodall, &c. There was always some *procacissimus Ardelio* ready to depreciate his professional exertions, and to brand his character with reproach. He is declared to have gained for all his assiduous labours for the good of mankind, “ only the sad and unjust recompence of *calumny* and *ignominy*, and that from the emulation of some of his *collegiate brethren*, “ and

\* See Aikin's Biograph. Mem. of Med. p. 289.



“ and others, whose indignation at length did  
 “ *culminat* to that hight, that they endeavored  
 “ to *banish him*, as guilty of medicinal heresie, out  
 “ of that illustrious society; and by *the whisper-*  
 “ *ings* of others, he was baulked the imployment  
 “ in the *Royal Family*, where before he was  
 “ called among the first physicians\*.”

The task would be at least an unpleasant, perhaps an invidious one, to attempt to particularize the living instances of a similar kind. The obvious principle, which still pervades and actuates the College of Physicians, *in their corporate capacity*, is extensively felt in its oppressive operation. The *courteous* abrogation, in favour of aliens, of a clause, which debarred all physicians from the order of candidates and of fellows, who were not the natural subjects of Britain, might have served a *temporary purpose*, but the advantages could extend to very few; and although it gave access to the honours, it could not give eligibility to the offices of the fellowship; it was, therefore, rather an instance of personal and partial favour, than of liberal reformation. The arbitrary nature of the by-laws of exclusion is still justly to be complained of. It stamps on the whole government of the college

\* See A Vindictory Schedule concerning the new cure of fevers, &c. by Andrew Broun, M. D. p. 83, 12mo. Edinburgh, 1691.



college the strong features of a tyrannical system. By disuniting the common interest of medical practitioners, it weakens their powers of serving mankind; for, in proportion as it diminishes the opportunities, it retards the progress of improvement.

The brightest talents, if not in alliance with the universities of England, are unavailing titles to patronage from the corporate society of the college. The blaze of unconnected genius may by accident display its brilliancy, but it has to burst its arduous way through a dense cloud of inveterate prejudice. Men of the greatest vigour of mind are often thus depressed, and condemned to toil in obscurity, excluded from all the legal privileges, to which talents and industry, learning and virtue fairly and unequivocally entitle them; whilst the grossest ignorance and empiricism, the most atrocious knavery in physic is tolerated and suffered to roll on, in an uninterrupted course of luxurious prosperity.

When the cause of all this is done away, when the stream of professional preferment is restored to its original channel, and the source of professional fame to its original purity, we may look forward to the accomplishment of the great object, for which the faculty of physic was

L                      incorporated;



incorporated ; and which is now so extremely neglected, as to be apparently forgotten.

The health, the welfare, the happiness of mankind, might be largely contributed to by the impartial encouragement of professional merit ; and by a general and uniform exertion in a liberally regulated college, to suppress a herd of infamous quacks and scandalous impostors, who daily buoy up the hopes and expectations of deluded multitudes, and fatten upon their credulity.



# APPENDIX.

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A.

(See page 15, and following.)

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THE  
CHARTER OF INCORPORATION,  
OF THE  
COLLEGE OF PHYSICIANS IN LONDON.

**H**ENRICUS, *Dei gratia, Rex Angliæ & Franciæ & Dominus Hiberniæ, omnibus, ad quos præsentēs literæ pervenerint, salutem.* Cum Regii officii nostri munus arbitremur, ditionis nostræ hominum felicitati, omni ratione, consulere; id autem vel imprimis fore, si improborum conatibus tempestivè occurramus; apprimè necessarium duximus improborum quoque hominum, qui medicinam, magis avaritiæ suæ causâ quàm ullius bonæ conscientiæ fiduciâ, profitebuntur, unde rudi & credulæ plebi plurima incommoda oriantur, audaciam compescere. Itaque partim bene institutarum Civitatum in Italia & aliis multis Nationibus exemplum imitati, partim gravium Virorum Doctorum, Johannis Chamber, Thomæ Linacre, Fernandi de Victoria, medicorum nostrorum, Nicholai Halfe-



well, Johannis Francisci & Roberti Yaxley, medicorum, ac præcipue Reverendissimi in Christo Patris, ac Domini Domini Thomæ tituli Sanctæ Cecilie trans Tiberim Sacrosanctæ Romanæ Ecclesiæ Presbyteri Cardinalis, Eborum Archiepiscopi, & Regni nostri Angliæ Cancellarii charissimi, precibus inclinati, Collegium perpetuum *doctorum & gravium virorum*, qui medicinam in urbe nostra Londino & Suburbiiis intraque septem millia passuum ab ea urbe quaquaversus publice exerceant, institui volumus atque imperamus. Quibus tum sui honoris tum publicæ utilitatis nomine *curæ*, ut speramus, *erit, malitiosorum, quorum meminimus, inscitiam temeritatemque*, tam exemplo gravitateque sua *detertere*, quam per leges nostras nuper editas, ac *per Constitutiones per idem Collegium condendas punire*. Quæ quo facilius rite peragi possint, memoratis doctoribus Johanni Chamber, Thomæ Linacre, Fernando de Victoria, medicis nostris, Nicholai Halfewell, Johanni Francisco, & Roberto Yaxley, medicis, *concessimus quod ipsi omnesque homines ejusdem facultatis de & in Civitate prædicta sint, in re & nomine, unum Corpus & communitas perpetua sive collegium perpetuum*. Et quod eadem communitas *sive* collegium, singulis annis, in perpetuum, eligere possint & facere de communitate illa aliquem providum virum, & in facultate medicinæ expertum, *in præsidem* ejusdem Collegii *sive* Communitatis ad supervidendum, recognoscendum, & gubernandum, pro illo anno, collegium *sive* communitatem prædictam, & omnes homines ejusdem facultatis, & negotia eorundem: Et quod iidem, præsidens, Collegium *sive* communitas habeant *successionem perpetuam & commune sigillum* negotiis dictæ communitatis & præidentis, in perpetuum, fervitutum: Et quod ipsi & successores sui, in perpetuum, *sint personæ habiles & capaces* ad perquirendum & possidendum, in feodo & perpetuitate, terras & tenementa, redditus & alias possessiones quasunque; concessimus etiam eis & successoribus suis, pro nobis & heredibus nostris, quod ipsi & successores sui possint perquirere sibi & successoribus suis, tam in dicta urbe quam extra, terras & tenementa quæcunque



cunque annum valorem duodecim librarum non excedentia, Statuto de alienatione ad manum mortuam non obstante: Et quod *ipsi per nomina præfidentis, collegii seu communitatis facultatis medicinæ Londini, placitare & implacitari possint*, coram quibuscunque Judicibus in curiis & actionibus quibuscunque: Et quod prædictus præfidentis, collegium *sive* communitas & eorum successores *congregationes licitas & honestas* de seipsis, ac *statuta & ordinationes pro salubri gubernatione*, supervisu & correctione collegii *seu* communitatis prædictæ, & omnium hominum eandem facultatem in dicta civitate, seu per septem milliaria in circuitu ejusdem civitatis, exercentium, secundum necessitatis exigentiam, quoties & quando opus fuerit, facere valeant licite & impune, sine impedimento nostrorum heredum vel successorum, nostrorum justitiariorum, escætorum, vicecomitum, & aliorum ballivorum, vel ministrorum nostrorum, heredum vel successorum nostrorum quorumcunque. Concessimus etiam eisdem præfidenti & collegio *seu* communitati & successoribus suis *quod nemo*, in dicta civitate aut per septem milliaria in circuitu ejusdem, *exerceat dictam facultatem nisi ad hoc*, per dictum præfidentem & communitatem, seu successores eorum, qui pro tempore fuerint, *admissus sit, per ejusdem præfidentis & collegii literas sigillo suo communi sigillatas*; sub pœna centum solidorum pro quolibet mense, quo non admissus eandem facultatem exercuit: dimidium inde nobis & heredibus nostris, & dimidium dicto præfidenti & collegio applicandum. Præterea volumus & concedimus pro nobis & successoribus nostris, quantum in nobis est, quod per præfidentem & collegium prædictæ communitatis pro tempore esistenti & eorum successores, in perpetuum, *quatuor*, singulis annis, *per ipsos eligantur*, qui habeant supervisum & scrutinium, correctionem & gubernationem omnium & singulorum dictæ civitatis medicorum utentium facultate medicinæ, in eadem civitate, ac aliorum medicorum forinsecorum quorumcunque facultatem illam medicinæ, aliquo modo, frequentantium & utentium, infra eandem civitatem



& suburbia ejusdem, five intra septem milliaria in circuitu ejusdem civitatis; ac punitionem eorundem pro delictis suis in non bene exequenda, facienda, & utenda illa; nec non *supervisum & scrutinium omnimodarum medicinarum*, & earum receptionis per dictos medicos, seu aliquem eorum hujusmodi, ligeis nostris, pro eorum infirmitatibus curandis & sanandis, dandarum, imponendarum & utendarum, quotiens & quando opus fuerit pro commodo & utilitate eorundem ligeorum nostrorum. Ita quod punitio hujusmodi Medicorum utentium dicta facultate Medicinæ, sic in præmissis delinquentium, per fines, amercia-  
 menta, & imprisonamenta corporum suorum & per alias vias rationabiles & congruas exequatur. Volumus etiam & concedimus pro nobis heredibus & successoribus nostris, quantum in nobis est, quod *nec Præfident* nec aliquis de Collegio prædicto Medicorum, *nec successores* sui, nec eorum aliquis exercens facultatem illam, quo modo in futurum, infra civitatem nostram prædictam & suburbia ejusdem, seu alibi, *summoneantur aut ponantur*, neque eorum aliquis summoneatur aut ponatur in aliquibus affis, juratis, inquestis, inquisitionibus, attinctis, & aliis recognitionibus infra dictam civitatem & suburbia ejusdem, in posterum, coram Majore & Vicecomitibus, seu Coronatoribus dictæ civitatis nostræ pro tempore existenti, capiendis, aut per aliquem Officiarium seu Ministrum suum, vel Officiarios five Ministros suos, summonendis, licet iidem Jurati, Inquisitiones seu recognitiones summoniti fuerint super brevi vel brevibus nostris vel heredum nostrorum de recto. Sed quod dicti Magistri five Gubernatores ac Communitas facultatis antedictæ & Successores sui, & eorum quilibet, dictam facultatem exercentes, versus nos, heredes & Successores nostros, ac versus Majorem & Vice-comites Civitatis nostræ prædictæ pro tempore existenti, & quoscunque Officiarios & Ministros suos, sint inde quieti & penitus exonerati in perpetuum per præsentem. Proviso quod literæ nostræ seu aliquid in iis contentum non cedent in præjudicium Civitatis nostræ Londini seu libertatis ejusdem. Et hoc absque fine seu feodo pro præmissis seu sigillatione  
 tione



tione præsentium nobis faciendo, solvendo vel aliquo aliter reddendo, aliquo Statuto Ordinatione vel Actu in contrarium, ante hæc tempora, factu, edito, ordinato seu proviso in aliquo non obstante. In cujus rei testimonium has literas nostras fieri fecimus patentes. Teste meipso apud Westmonasterium, Vicefimo tertio die Septembris Anno Regni nostri decimo. Per ipsum Regem & de data prædicta auctoritate Parliamenti. Tunstall.

## B.

(See p. 31, 32, 33.)

Præfidis officium esto ut Comitia indicat, (qua autem ratione postea dicetur cum de comitiis statuemus) tum ut causas Comitiorum proponat; singulorum sententias accipiat; pro majori parte decernat; factiones & partium studia excludat; Electores, Confiliarios, literarum, morum et medicamentorum Censores, cum cæteris quorum ea res intererit, eligat; in Collegis eligendis aliorum suffragia primum accipiat, dein suum ferat, et pro majori parte decernat; Lites inter Collegas dirimat, sed id communi consilio et sententia Electorum et Censorum seorsim adhibitorum, (eoque modo quo postea in capite de Confiliariis dicetur plenius;) Curet præterea ut Sigillum commune in arca tuto custodiatur. Omnia ipse obfignabit in quæ reliqui Socii pro officio et statuto consenserint. Si qui libri Collegio donentur, curabit ut reponantur in Bibliotheca, et, exacto anno, eorum ratio reddatur novo Præfidi, ostendanturque ei nominatim ex indice. Si quis sit redditus five fructus annuus ex fundis Collegii, si quid donetur Collegio, si quid aliis nominibus accedat, procuret ut in communi arca conservetur, cujus ipse clavem unam, Confiliariorum singuli itidem unam habeant. Rationem etiam acceptorum et expensarum anni superioris exigat a Thesaurario cæterisque officiariis Collegii, in præsentia reliquorum Electorum tunc temporis in urbe præsentium, quos omnes admoneri volumus, ut putandis rationibus præsto sint, si commode



si commodè modo poterint. Imprimis autem videat ut statuta diligenter observentur et in Collegio legantur, vel ab ipso, vel a Registrario, vel ab alio aliquo prout illi videbitur, (eo nimirum modo, quo postea in statutis provisum et constitutum est.)

Det fidem Præfident electus, se pro viribus conaturum, ut honos Collegii conservetur, & Statuta ejusdem sine fraude observentur; omniaque acturum in salutem reipublicæ, & honestam Collegii utilitatem.

### C.

(See p. 34, 35.)

Horum officium esto, de omnibus medicinam exercentibus cognoscere, siue nostrates fuerint, siue advenæ, per urbem, suburbia, & intra septem milliaria in ambitu eorundem; eos examinare, corrigere, gubernare, & lite (si opus sit) una cum Præfide & Thesaurario, persequi: eorum medendi rationes inquirere, medicamenta judicio perstringere, Pharmacopolarum officinas scrutari, de pharmacis judicare, vitiosa comburere, aut alio pacto destruere: si Pharmacopolæ obstiterint, ad præfidem & Collegium rem referre: omniaque hæc in salutem Reipublicæ & Collegii honorem agere.

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Censorum officium esto (præter supervisum & scrutinium correctionem & gubernationem omnium & singulorum civitatis Londinensis Medicorum, & cætera munia Regis & Parliamenti auctoritate ipsis mandata) omnes etiam, qui in civitate Londino aut per septem milliaria in circuitu ejusdem medicinam exercent, licet ad hoc non sint admissi per præfidentis & Collegii literas sigillo nostro communi sigillatas, una cum Præfidente aut Propæfidente, pro ipsorum arbitrio, admonere; & lite (si opus fuerit) una cum Præfidente & Thesaurario persequi; nec non eos, qui *in Sociorum aut Candidatorum ordinem* aut *permissorum numerum ut admittantur petiverint*, examinare.

Jurabunt



Jurabunt coram præfide, se neminem in collegium admit-  
tendum decreturos, nisi quem, omni seposito affectu, judicave-  
rint & literis & moribus idoneum : Nec prece, nec pretio, vel  
gratia, aut quemquam hominem, aut quidquam Medicamen-  
torum approbaturus ; inque cæteris suo officio probe functu-  
ros ; sicut eos Deus adjuvet, & sancta Dei Evangelia.

---

Jurent coram præfidente se officio suo probe functuros, sicut  
eos Deus adjuvet & sancta Dei Evangelia.

## D.

(See p. 84, 85.)

Quoniam complures, in hac civitate medicinam faciunt, quos  
inidoneos omnino censemus, ut in numerum Sociorum aut  
Candidatorum adoptentur, vel quod *natione non sint Britanni*,  
vel *Doctóratús gradum non adepti fuerint*, vel *non satis docti*, aut  
*ætate & gravitate provecti sint*, vel *alias consimiles ob causas*, &  
tamen Reipublicæ inservire & salutí hominú prodesse pos-  
sint, *saltem in nonnullis curationibus*.—De his ordinamus &  
statuimus, ut post examinationes debitas & approbationem  
Præfidis, & Cenforum permittantur ad praxin, *quamdiu se bene*  
*gesserint*.

## E.

(p. 88, 89.)

Si quis forte Chirurgus, aut Pharmacopola, se Præfidi, &  
Censoribus examinandum obtulerit, *quo in Candidatorum nume-*  
*rum reciperetur* \*, eum ante examinationem, aut saltem ante  
admissionem, omni jure et obligatione exui volumus, quibus  
suæ communitati prius obstringebatur. Neque enim æquum  
aut

\* Quo in Candidatorum, Permissorumve numerum recipiatur. P. 186 of  
the Statutes, 1693.



aut commodum censemus quemquam in societatem nostram admittere, qui fidem alteri addictam habet.

## F.

(See p. 89, 90.)

Statuimus & ordinamus, *ut numerus Candidatorum non excedat duodecim* \* : Volumusque ut nemo admittatur in illorum ordinem, qui non sit in medicina doctor, & natione Britannus, & medicinam exercuerit per quadriennium.—Quod si Doctoratus gradum in externa aliqua Academia adeptus fuerit; volumus, ut antequam admittatur ad examen, Diploma, five Literas Testimoniales veras & authenticas illius Academiae proferat, & ostendat Collegio; & praeterea ab alterutra nostrarum Academicarum incorporationis suae testimonium habeat, & aducat.

## G.

(See p. 92, 93.)

Quoniam multi huc confluunt quotidie ad exercendam praxin, e quorum numero complures sunt, qui ante debitum tempus ex Academicis suis emigrantes, ad transmarinas oras volitant, ut in exteris regionibus breviori spatio, & minori impendio ad Doctoratus gradum perreptent, quam domi in Academicis nostris assequi poterant. Idcirco statuimus, ut quicumque vel in Collegii societatem, vel in Candidatorum ordinem, vel in Permissorum numerum admittetur, si Doctoratus gradum apud externos susceperit, is, admissionis tempore, *duplo plus solvat Collegio Praefidi, Thesaurario, Registrario, aliisque Collegii officiariis, quam illi solvere solent, qui in nostris Academicis Doctores creantur*.—Item, quicumque Doctor creatus fuerit in nostris Academicis, si tamen festinantius ad gradum illum subvolando quam par est,

\* The same statute exists in all the copies prior to that of 1765, but in all subsequent to 1693 the number of candidates is not limited.



est, tempus illi dignitati debitum anticipaverit, id est si Doctor fiat prius, quam vel in artibus integros septem annos rexerit, vel tam diu Baccalaureus in Medicina præextiterit, *is duplo plus solvet Collegio, Præsidi, cæterisque prædictis collegii officiariis,* quam illi solent, qui secundum laudabiles leges & consuetudines nostrarum Academiæ, tempore præfinito, & maturiori cum judicio, ad Doctoratus gradum ascenderunt.

## H.

(See p. 96.)

Statuimus & ordinamus, ut in candidatorum vel fociorum ordinem nullus admittatur Chirurgus, Pharmacopæus, *aliusve aliquis ejusmodi artifex,* qui aut artem quamcunque minus liberalem unquam exercuerit, aut ad servitutem adstrictus in officina Tyrocinium posuit, ne forte si tales in Collegium ita cooptentur, non satis consuluisse videamur, aut *Dignitati nostræ,* aut *Honori Academiæ nostratiæ* quas tamen summa veneratione prosequi debemus, & semper volumus.

## I.

(See p. 97.)

Statuimus etiam ut nemo, qui Chirurgus aut Pharmacopola fuerit in Permissorum numerum admittatur, nisi, ante examinationem primam, Præsidentem aut Propræsidentem & Censores aut eorum majorem partem certiores fecerit, & *fidem jurejurando,* si ipsis visum fuerit, obstrinxerit, *se non biennii spatio* ab eo tempore, quo in numerum permissorum admitti petunt, *Chirurgi vel Pharmacopolæ arte victum quærivisse.*



## K.

(See p. 101, 102.)

*Comit. major. ordin. Junii 25, 1713.*

“ The following statute was the second time proposed to the  
 “ college, and being ballotted, and carried in the affirmative,  
 “ it was ordered that the college seal should be set to it, which  
 “ was done accordingly.”

Cum Licentiati five Permissi, qui, scilicet, vel nullum, ve  
 saltem non in nostris Academiis, in Medicina Gradum suscep-  
 erint, eadem tamen practicandi libertate, per hanc urbem  
 & septem circum circa milliaria, aliisque juribus & immuni-  
 tatibus gaudeant, quibus Candidati Socique (qui magnos sum-  
 ptus ad gradum tam Doctoratus, quam alios adipiscendos in  
 Academiis nostris fecerint) fruantur. Æquum censemus, ut  
 illi pares ad minimum cum iis Pecuniæ summas Collegio nostro  
 solverent. Quocirca ob rationes prædictas, & ut *justis Aca-*  
*emicorum nostratium querelis* frequenter hac in re ad nos delatis  
 obviam eamus; Statuimus et ordinamus, quod nullus, in pos-  
 terum, Licentiatus five Permissus ad praxin medicinæ in hac  
 urbe admittatur, nisi prius *septuaginta libras legalis Monetæ*  
*magnæ Britanniae* Thesaurario hujus Collegii, pro tempore  
 existenti, in usum ejusdem solverit, & quascunque alias sum-  
 mas per statuta Collegii tempore permissionis debitas. Proviso  
 semper quod licebit Præfidi & Cenforibus pro tempore existen-  
 tibus (si illis æquum videbitur) dispensare cum solutione alicu-  
 jus partis dictæ summæ septuaginta librarum non excedentis in  
 toto summam triginta & quinquæ librarum; modo dictus per-  
 missus, tempore permissionis, se obstringat, Scripto suo Obliga-  
 torio dicto, Thesaurario ad solvendam summam in dicto scrip-  
 to obligatorio contentam, intra annum proxime sequentem  
 talem permissionem, atque ad ordinarias insuper trimestres  
 solutiones per statuta nostra debitas, de tempore in tempus, præ-  
 standas.

“ After



“ *After which the diplomas of the newly admitted licentiates  
“ were sealed with the college seal.”*

## L.

(See p. 103.)

Volumus ut nemo admittatur in Collegii Societatem, qui non prius fuerit per annum integrum de Candidatorum numero; aut publice in aliqua Britanniae Academia, medicinam per triennium prælegerit, aut Doctor Cathedræ, ut aiunt, in aliqua hujus Regni Academia præextiterit, aut Regius Medicus fuerit ordinariis \*.

## M.

(See p. 104.)

## Statutum alterum de Candidatis.

Cum Statutum de Candidatis, quo tam sibi ipsi quam Statuto de Sociis constaret, plane voluit ut nemo admitteretur in ordinem Candidatorum, qui non fuerit in Medicina Doctor, vel in Academia Oxoniensi vel Cantabrigiensi, licet his ipsissimis verbis non ita cautum fuit: Nequa lis in futurum de hac re oriatur, statuimus et ordinamus, ut nemo admittatur in ordinem Candidatorum, qui non sit in medicina Doctor, vel in Academia Oxoniensi vel Cantabrigiensi.

## N.

(See p. 107, 108.)

Nemo in Candidatorum ordinem admittatur, nisi qui in omnia Britannorum jura natus sit, & nisi qui, in Academia  
vel

\* *In the statutes of 1736, 1750.* Statuimus et ordinamus, ut numerus Sociorum non excedat octoginta. In those of 1647. 1687. 1693, *Triginta:* Volumusque, ultra hunc certum & determinatum numerum, Regis, Reginae, & Principis Medicos ordinarios tanquam Medicos Honorarios supernumerari & admitti.



vel Oxoniensi vel Cantabrigiensi, medicinæ Doctor creatus fuerit, idque *postquam omnia* in statutis utriusvis academici præscripta compleverit, *sine dispensatione vel gratia insolita*. Siquis vero doctoratus gradum in *Academia Dubliniensi* adeptus fuerit, volumus ut, antequam eligendus proponatur, literas testimoniales tam ab illa academia, de præstitis omnibus exercitiis ibi necessariis, *sine dispensatione vel gratia insolita*, quam ab alterutra academiarum nostrarum de incorporatione sua, Registrario proferat. Illos vero, qui in prædictis academiis vel honoris causa, vel ex mandato qualicunque aut privilegio extraordinario, medicinæ doctores creati fuerint, gradus istiusmodi virtute in Candidatorum ordinem cooptari nolumus.

## O.

(See p. 108.)

Nemo in Sociorum ordinem admittatur, qui non fuerit annum integrum candidatus; præter regis vel regię conjugis medicum ordinarium cum stipendio, aut in Academia vel Cantabrigiensi vel Oxoniensi medicinæ Professore regium. Modo tamen tam regis vel regię conjugis medicus ille, quam Professor regius, in omnia Britannorum jura natus sit, & in Academia vel Oxoniensi vel Cantabrigiensi medicinæ doctor creatus fuerit; idque postquam omnia in statutis utriusvis academici præscripta compleverit, *sine dispensatione vel gratia insolita*. Si vero regis vel regię conjugis medicus ille, aut Professor regius prædictus, doctoratus gradum in academia Dubliniensi adeptus fuerit; volumus ut, antequam eligendus proponatur, literas testimoniales tam ab illa academia, de præstitis omnibus exercitiis ibi necessariis *sine dispensatione vel gratia insolita*, quam ab alterutra academiarum nostrarum de incorporatione sua, Registrario proferat. Illos vero, qui in prædictis academiis vel honoris causa, vel ex mandato qualicunque, aut privilegio extraordinario medicinæ doctores creati fuerint,

gradus



gradus istiusmodi virtute, in societatem nostram cooptari nolumus.

## P.

(See page 120, and following.)

*Comit. major. ordin. Sept. 30, 1720.*

“ It was proposed to consider of the statute relating to  
“ the honorary fellows, in order to admit such, as have had a  
“ regular education in foreign universities, into the order, and  
“ distinguish them from licentiates that have had no degrees.  
“ To be referred to the president and censors for their report.”

*Comit. major. ordin. Junii 26, 1721.* “ The register read a  
“ first time a statute for the future making honorary fellows as  
“ follows :”

## Statutum de admissione Sociorum Honorariorum.

Prudenter equidem & jure a majoribus nostris statutum est, ut qui ab *Academiis hujus regni Angliæ* summos honores acceperint, ii quoque in Collegio præcipuis potirentur privilegiis & *sub sociorum nomine* locum obtinerent. Ut vero bono publico deesse non viderentur, *ad praxin admisserunt plures minus idoneos* reputatos, qui in numerum sociorum adoptarentur, vel quod Doctoratus gradum non adepti fuerint, vel non satis docti, vel alias consimiles ob causas; & tamen reipublicæ inservire, & salutem hominum prodesse potuerint, saltem nonnullis in curationibus. Stabilita hujusmodi Collegii autoritate, nec publica utilitate neglecta, ulterius in facultatis dignitate consulenda porrexerunt, nihilque æquius judicarunt, quam ut qui ipsi facultatem medicinæ jam ornaverint, ii quoque a facultate debitis honoribus condecorarentur: in hunc finem, ordinem Sociorum Honorariorum crearunt, in quem reciperentur viri liberaliter educati, & doctrina, & morum probitate insignes. Nos, institutum hoc omnino laudantes, & *ut arctius*, in posterum,



rum, *contra ineptorum ambitionem* muniatur cupientes, statui-  
mus & ordinamus, ut nemo Socius Honorarius admittatur,  
qui Doctoratus gradum in aliqua Academia non affecutus  
fuerit. Quod ad mores spectat aliaque in socio honorario  
requirenda, id totum collegarum judicio relinquimus, ut in  
Comitiis majoribus, prout idoneum fuerit visum, de singulis  
petitionibus decernant, antequam ad examen admittantur.  
Volumus insuper ut unusquisque Socius Honorarius, *semel*  
ad minimum, a Præside & Cenforibus examinetur, ut de  
doctrina ejus certiores faciant Collegas. Præterea decretum  
est ut, tempore admissionis, *centum libras legalis monetæ Magnæ  
Britanniæ* Collegii Thesaurario pendat, in usum Collegii;  
*præter solutiones ordinarias* Præsidi, Cenforibus, Thesaurario,  
Registrario, & Bedello, per statuta debitas, & necessariam  
pro diplomate impensam, & deinde, subscripto nomine, polli-  
ceatur se statuta omnia, quæ Sociis Honorariis ante admisso-  
nem perlegenda sunt, diligenter observaturum, aut multas  
contra faciendi inflictas, non invito animo, persoluturum.

“ *And was agreed to nemine contradicente.*”

*Comit. major. ordin. Sept. 30, 1721.* “ The statute for  
“ honorary fellows was read a second time and approved,  
“ and the seal to be set to it next college day.”

*Comit. major. ordin. Dec. 25, 1725.* “ The president  
“ having taken notice of the disputes that had been occasioned  
“ by the statute relating to honorary fellows, did, for prevent-  
“ ing any further disputes, propose in the following manner:”  
———“ That the statute relating to honorary fellows should  
“ be now repealed, a first time, which was unanimously  
“ agreed to.”

It was agreed likewise, *on the same day*, that Dr. John  
Birch, and Dr. Richard Middleton Masséy, should have leave  
to be examined as honorary fellows.

The



The propofal for the repeal of this ftatute was repeated January 19, 1726, and unanimoſly agreed to: and a third time the 4th of April, 1726.

## Q.

(See page 124.)

*Comit. major. ordin. Dec. 22, 1721.*

“ The regiſter read a form of a letter to the two univerſities, concerning their being cautious of admitting doctors in phyſic. Ordered, that it be finally referred to the preſident and cenſors, and ſent accordingly.”

## An Extract from that Letter.

Neque id vos latere volumus, ita nempe a nobis cautum eſſe, ut maxima apud nos habeatur Academicæ institutionis ratio: utque illi quos honoribus vos ornaſtis, & *faciliori negotio, & impenſis multo quam olim minoribus*, tanquam cognati & familiares, in domicilium noſtrum recipiantur.—Hoc ergo unum a vobis rogare liceat, quod nos facile impetraturos ſpondemus; nequis ullo apud vos in medicina gradu coretur, qui non in academia vel id temporis inſumpſerit, eave eruditionis ſpecimina ediderit, quæ artis noſtræ ratio & ſtatuta veſtra deſiderant.

## R.

(See p. 125.)

Si quis tamen, in qualibet academia animo ſtudendi quatuor annos commoratus, doctoris in medicina gradum ſuſceperit, & *ſingulari favore Collegii dignus* viſus fuerit, liceat per majorem partem Sociorum præſentium in comitiis iis ordinariis majoribus, quæ poſtridie Divi Michaelis habentur, illum, poſtquam in Permiſſorum numero per tres annos fuerit, in Candidatorum ordinem cooptare: dummodo iſta cooptatio *viginti ſuffragiis* per pilas occulte acceptis ſanciat, & ne quod *aliud Collegii*



*Statutum* inhabilem illum ad id beneficium accipiendum reddiderit.

## S.

(See p. 125.)

Si quem tamen postquam tres annos integros in studio medicinæ academiis quibuscumque posuerit, doctoris gradu in eadem facultate academia Oxoniensis vel Cantabrigiensis *singulari gratia* insignaverit, liceat cuilibet socio eundem, si annum ætatis suæ tricesimum clauferit, in comitiis iis majoribus, quæ postridie Divi Michaelis habentur, examinandum proponere; qui adeo, si consenserit Major pars sociorum in illis comitiis præsentium, examinetur, modo infra statuto ita tamen ut *tertia examinatio non fiat* nisi in iis comitiis majoribus, quæ postridie festi Divi Michaelis proxime infecuturi habenda sunt.

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Statuimus autem & ordinamus ut is, qui, modo supra statuto, propositus, examinatus, & in singulis examinationibus approbatus fuerit, proponatur continuo a præfidente in numerum Candidatorum eligendus, qui adeo, *si duæ tertiæ sociorum* in illis comitiis præsentium consenserint, admittatur; dummodo nec lex terræ, nec *ullum aliud Collegii nostri statutum* eundem ad illum beneficium accipiendum inhabilem reddiderit.

## T.

(See p. 130, 131.)

Statuimus & ordinamus, ut si quis septem annos integros fuerit in numero eorum, qui ad facultatem Medicinæ, in civitate Londino & per septem milliaria in circuitu ejusdem, exercendam a Collegio nostro permitti fuerint, annumque ætatis suæ tricesimum sextum clauferit, liceat cuilibet sociorum, in comitiis ordinariis iis, quæ a festo Divi Michaelis proxime habentur, eundem examinandum proponere; qui adeo, si consenserit  
major



major pars fociorum in illis comitiis præsentium; juxta formam infra præscriptam a præfidente vel propræfidente & Cenforibus, tribus comitiis proxime infecuturis majoribus ordinariis, examinetur, & si in singulis examinationibus a majore parte fociorum præsentium in illis comitiis approbatus fuerit; comitiis majoribus ordinariis proxime infecuturis a præfidente vel propræfidente proponatur in ordinem fociorum admittendus, & si consenserit major pars Sociorum in illis comitiis præsentium, quamprimum commode fieri potest, admittatur, dummodo nec Lex terræ, nec ullum statutum Collegii nostri eundem ad illud beneficium accipiendum inhabilem reddiderit.

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## STATUTE 9 K. Hen. V.

In page 10, I have asserted, that the act of the third of Henry VIII. was the first ever issued in England, for regulating practitioners in physic. In this assertion I am supported by the authority of Dr. Goodall, and of the Compiler of "*The Law of Physicians, Surgeons, and Apothecaries,*" published in 1767, and professedly compiled "*by desire of a Great Personage, for the use of such gentlemen of the faculty as are enemies to quackery.*" I have taken considerable pains, unsuccessfully, to procure a sight of "*Dr. Merrett's collection of Acts of Parliament, Charters, &c. relating to the College of Physicians, published in 4to. 1660.*" I conclude that his arrangement must be similar to Dr. Goodall's, as we are informed by Mr. Gough, in his *British Topography*, V. i. p. 650, that great part of Dr. Merrets collection is included in, *The Royal College of Physicians of London, &c. by Charles Goodall, Doctor in Physick, &c. 1684, 4to.* I have compared the different acts of parliament copied by Dr. Goodall, with the statutes at large, and find them accurately transcribed. Sir William Browne, however, has noticed an act of the ninth of Henry V. nearly a century prior to the third of Henry VIII. and he considered that  
statute



statute as a proof, that the English universities were *the sources* of learning and medical science, even in the dark ages. It is on this account, that I insert it here, for the propriety of Sir William Browne's inference is extremely disputable, as will appear from the act itself. It is as follows, transcribed *verbatim*, from *Sir William Browne's Vindication of the Royal College of Physicians*, &c. 4to. 1753, p. 3 and 4, in a note.

“ That our two universities were sources of learning and  
 “ medical science, even in the dark age of monkery, the  
 “ fourteenth and fifteenth centuries, appears from the Statute  
 “ 9 K. H. V. which, *although not printed in the Statute book*, was  
 “ enacted according to the following transcript taken from the  
 “ *parliament-rolls*, and laid up *among our archives*.

Ex bundello petitionum de A<sup>o</sup> 9<sup>o</sup> H. V. in parlamento.

Hey and most mighty prince, noble and worthy lords spiri-  
 tuelx, and temporelx, and worshipfull comunes, for so moche  
 as a man hath thre things to governe, that is to say soule, body,  
 and worldly goods; the which ought and shulde ben princi-  
 paly reweled by thre sciences, that ben divinitie, fisyk, and  
 lawe, the soule by divinitie, the body by fisyk, worldly goods  
 by lawe, and those conynges shoulde be used, and practised  
 principally by the most connyng men in the same sciences, and  
 most approved in cases necessities, to encrese of vertue, long  
 life, and gouds of fortune, to the worship of God and comyn  
 profit.

But worthi foveraines hit is known to your hey discretion,  
 meny uncunnyng, and unaproved in the aforesaide science,  
 practiseth and specially in fyfyk; so that in this realme is every  
 man, be he never so lewed, takeing upon him practyse, y suf-  
 fered to use it to grete harme, and slaughtre of many men:  
 where if no man practised therein, but al only connyng men,  
 and



and approved sufficiently, y learned in art filosofye and fifyk, *as it is kept in othur londes and roialmes*, ther shuld many man, that dyeth for defaute of helpe, lyve, and no man perish by unconnyng.

Wherefore pleseth to your excellents wyfdomes, that ought, after your soule, have mo entendance to youre body, for the causes abovesaid to ordaine, and make in statute perpetually, to be straitly y used and kept, that no man of no manner estate, degre, or condition, practise in fifyk fro this time forward, *but he have long time y used the scoles of fifyk, within some universitee; and be graduated in the same*: that is to say, but he be bachelor or doctour of fifyk, having lettres testimonialx sufficeantz of on of those degrees in the universite, in the which he took his degree; in undur peyne of long imprisonement, and paying xl lb. to the king; and that no woman use the practise of fifyk, under the same payne. And that the sherreffs of every shire make inquisition, in their tournes, if there be any that forfaiteth ayens this statuit, under a payne reasonable, and thenne that they put this statute in execution, without ony favoure, under the same payne: also lest that thay, the which ben able to practise in fifyk ben excluded fro practise the which be not graduated. Pleseth to your hey prudency to send writtes to all the sherreffs of Englund, that every practysour in fifyk not graduated in the same science, that wole practise forth be wythin on of the universities of this lond, by a certain day, that thay, that ben able mowe after true and streyt examination, be received to their degree, and that thay, that be not able, to cese fro the practise into the time, they ben able and approved, or for to never more entermete thereof, and that herto also be y set a peyne convenient.

Dorso. Responsio hujus petitionis patet in rotulo parliamenti dat. 2 die Maii anno regni regis Henr. 5ti. post conquestum nono.

Rot. Parl. 9 H. V. p. 1. n\*. 11.

Lordinance



## Lordinance encontre les entremettours de fifyk et de furgerie.

Item, pur ouster meschieves et perils, qe longement ont continuez dedains le roialme, entre les gentz, per my ceux, quont ufez larts et le practik de fifyk, et furgerie, pretendantz foi' bien et fufficeaument appris de mesmes les arts, ou de verite non pas estes a grand deceite a le people. Si est ordeinez, et assentuz, en ceste parlement, qu les seigneurs du counseil du roy, pur le temps esteantz, aient poair, per auctoritie de mesme le parlement, de faire et mettre tiele ordinaunce, et punissement envers ceux perſones, qe desore enavant vorront entremetter, et uſer le practik des dits arts, et ne ſont my hables, ne approves en y celles, come app'ent as mesmes les arts, ceſſaſſavoir, ceux de fifyk en les univerſities, et les furgeons entre les meſtres de cell arte, et ceo, come ſemblera as ditz seigneurs le plus convenable, et neceſſarie, en le cas ſelonc lour bon advis et diſcretion, pur le ſurete de le people.

### *In plane English.*

## An ordinance againſt intermeddlers in phyſic and ſurgery.

Alſo, to take away the miſchiefs and dangers, that have long continued, within this realm among the people, ariſing from thoſe, who have uſed the arts and practice of phyſic, and ſurgery, pretending themſelves to have been well and ſufficiently inſtructed in the ſame arts, when, in truth, they have not, to the great deceit of the people. Now it is ordained and aſſented in this parliament, that the lords of the king's counſel, for the time being, ſhall have power, by authority of the ſame parliament, to appoint ſuch order and puniſhment for thoſe perſons, who ſhall hereafter intermeddle and uſe the practice of the ſaid arts, not being ſkilful nor approved in them, as to the ſame arts appertaineth, that is to ſay, thoſe  
in



in phyfic by the univerfities, and the furgeons by mafters of that art, and this, as it fhall feem to the faid lords moft convenient and neceffary in the cafe, according to their good judgement and difcretion, for the fafety of the people.

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Now it is manifef, that this ftatute, as well as the fubfequent charter of the tenth of Henry VIII. was enacted to regulate the praftice of phyfic in this country, in the way it was then regulated “ *in othur londs and roialmes.*” It has been pointed out in p. 6 and 7, that it was an early cuftom for the members of the Englifh Univerfities, to ftudy on the continent; that, even at the beginning of the fifteenth century, medical lectures were given, at Oxford, by a foreigner, who was detained for that purpofe, when he went thither from Montpelier for a degree in phyfic; and that all the earlieft promoters of learning, in Britain, after the revival of letters, were men, who imported their knowledge from Italian Univerfities.

It is, therefore, evident, that the medical fyftems, and arrangements of Foreign univerfities, were the profefed examples of imitation here, and that what learning the age poffeffed, was only acquirable on the continent, confequently that the Englifh univerfities, at that remote period, fo far from being *the fources* of learning and medical fcience, as Sir William Browne afferted, were only enlightened through the medium of foreign fchools.

It is equally manifef, that there was not the leaft preference given to the graduates in phyfic of Oxford and Cambridge, by this act of Henry V. nor the neceffity enforced of being incorporated there, to obtain equal professional privileges. The act required, only, to conftitute a regular phyfician, that he fhould “ have long time y ufed the fcoles of fifyk *within fome univerfitee*; and be graduated in the fame, that is to fay, but he be “ a bachelor, or doctour of fifyk, having lettres testimonialx fuf-  
“ ficeantz



“ ficeantz of on of thofe degrees in the univerfite in the which  
 “ he took his degree.” All other practifers, not fo entitled,  
 were to appear “ wythin on of the univerfities of this lond that  
 “ they, that ben able mowe, after true and freyt examination  
 “ be received to their degree, and that thay, that be not able,  
 “ to cefe fro the practife into the time, they ben able and ap-  
 “ proved, or for to never more entermete thereof.” There was  
 not any thing fpecified like the formal, and unnecelfary delay  
 of eleven years for a doctor’s degree, nor of unreafonable fa-  
 crifices to obtain incorporation. The only exaction was, the  
 only rational and juft one, a proof of competency. As there  
 was not any College of Phyficians at that time, and as the Bi-  
 fhops had not then been empowered to grant licenses in phyfic,  
 there was not any place, in England, fo proper to give the  
 proofs of competency at, as the univerfities: but the compe-  
 tency of the graduates of any univerfity was never difputed;  
 thofe, therefore, who had graduated, were not to be fubjected  
 to re-examination.

*FINIS.*







