

## **Lizars against Syme.**

### **Contributors**

Lizars, John, 1787?-1860.

Syme, James, 1799-1870.

Royal College of Physicians of Edinburgh

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## **LIZARS against SYME.**

EDINBURGH, 19, ST. ANDREW SQUARE,  
3d September, 1852.

SIR,

I HAVE been directed to transmit for your consideration the subjoined Resolutions, with Extract from the *Caledonian Mercury*.

I have the honour to be,

SIR,

Your most obedient Servant,

JAMES LAING,  
*Secretary and Treasurer.*

At a Meeting of the Friends of Mr. LIZARS, Surgeon, held at Edinburgh the 27th day of August, 1852, Dr. JOHN RENTON in the Chair, the following Resolutions were moved and unanimously agreed to:—

1. The friends of Mr. LIZARS being deeply impressed with the injustice of the verdict of the Jury in *causa LIZARS v. SYME*, embrace the present as a fitting occasion to testify their undiminished respect for Mr. LIZARS as a Gentleman, and their unabated confidence in him as a Surgeon; and they consider, that an appropriate form of expressing the feeling of the public on this subject, would be by a Subscription, for the purpose of either liquidating the expenses incurred in the necessary defence of his reputation, or for recording such other mark of their esteem, as may be deemed advisable, and that a Subscription be immediately set on foot for this purpose.

2. That this Resolution be published in some Medical Journal, and further, be printed, and copies of it extensively circulated, so as to afford the Public an opportunity of contributing to a cause, with which they strongly sympathise.

3. That JAMES LAING, Esq., Accountant, 19 St. Andrew Square, Edinburgh, be appointed Secretary and Treasurer, who has agreed to receive the Subscriptions, and to whom all Communications may be addressed.

JOHN RENTON, M.D., *Chairman.*

JAMES LAING, *Secretary and Treasurer.*

### **Extract from the Caledonian Mercury, Second Edition, 5th August, 1852.**

THE wisdom of Gotham, erroneously supposed to have become extinct, has just achieved a glorious inauguration through the medium of a verdict pronounced in the First Division of the Jury Court, in the Case of LIZARS against SYME, a report of which has been put into our hands. A verdict which justly entitles the twelve Solons who pronounced twelve conspicuous niches in the Great Temple of Folly, appropriately draped in motley and capped in bells. The abers of Gotham, it seems, may slumber, but do never die, and one of the high priests, who from age to age watch over precious fires and fan them occasionally into the glare of absurdity, has now discovered himself in the person of the Foreman of a Scottish Jury.

On the 26th of June, 1851, Mr. Syme addressed a letter to the Editor of the *London Medical Gazette*, which was published in that Journal, with the following note—"Certain parts of this letter, which would fall under the English law of libel, have been omitted." The view taken by the counsel for Mr. Lizars in regard to this note seems the correct one. He says to the Jury in his opening address—"You might have supposed, that after the significant warning which the defender received, that the omitted portion of his letter, addressed to this periodical, would fall under the English law of libel, that he or any candid man would not disregard this warning; but instead of this, after weeks of reflection and



consideration, he deliberately proceeded to get the libellous passage of his letter, which had been rejected by this periodical, published in another periodical in some measure under his own control."

In the month of August, 1851, accordingly, in the "*Monthly Journal of Medical Science, conducted by Professor Christison, Professor Syme, Professor Simpson, Dr. Bennet, Dr. MacLagan, and Dr. Robertson,*" the letter appeared in its original and rejected form, and the portion of it more particularly founded on by the pursuer we have distinguished by capitals. The paragraph is as follows — "You say—a fierce paper war has arisen between the two Edinburgh professors, Syme and Lizars; but you must, or at least ought to know, that I have not addressed a single word upon the subject in question to the so-called professor, REGARDING HIM AS LONG PLACED BEYOND THE PALE OF PROFESSIONAL RESPECT AND COURTESY." This is the ground of action against Mr. Syme, and the Issue which goes to the Jury is, Whether this statement "represents and holds out the pursuer (Mr. Lizars) as a person of disreputable character in his profession, and as neither respected nor entitled to respect in the medical profession, to the loss and damage of the pursuer."

The witnesses called by the pursuer to prove the libel were—Dr. ALFRED TAYLOR, Professor of Medical Jurisprudence in Guy's Hospital, the conductor of the *Medical Gazette*, who proved that the article in that journal which called forth the letter from Mr. Syme, was written by Dr. Kesteven, and that Mr. Lizars had no knowledge or connection with it whatever; that he considered the omitted passages in the letter highly objectionable, as reflecting on the character of a medical man, and that they would involve the publishers of the *Medical Gazette* in an action for libel, would prevent Mr. Lizars being consulted by medical men or patients, and induce the public to suppose his professional character to be disreputable.

Dr. KESTEVEN, Surgeon to the Dispensary at Holloway, the author of the article in the *Gazette*, which produced Mr. Syme's letter; the expression in which he says conveyed to his mind the meaning, that, if true, Mr. Lizars was in bad repute amongst his brethren in Edinburgh, that his professional character was disreputable, that medical men would not consult him, and that they would not advise patients to consult him.

Dr. JAMES RENTON of Dalkeith, who spoke to the same effect, and on cross-examination added — "I took the simple meaning of the words which I have stated. I read the words as I found them, and I give my humble explanation of their meaning."

Mr. SANDERSON of Musselburgh, who adopted the same meaning.

Dr. SIBBALD of Edinburgh, who considered, that such a statement applied to him *would destroy him as a medical man*; and who held that a man must be a quack, an impostor, a dishonest man in fact, who had placed himself "beyond the pale of professional respect and courtesy."

Professor MILLER of Edinburgh, who considered the expressions to imply, that there was something decidedly disreputable in the professional character of Mr. Lizars, and that he was not respected, nor entitled to respect, in his profession; and

Mr. HIGHLEY, one of the four great medical publishers in London, to whose mind the expressions conveyed the idea, that Mr. Lizars was of bad repute in Edinburgh.

Such were the witnesses, and such the import of the evidence for the pursuer. And what, it will be asked, was the nature of the evidence for the defence? or what defence could possibly be urged to so gross a libel, where no issue in justification was taken? The defence may be stated in the words of Professor Christison, one of the defender's witnesses: "I understand by the words '*long placed beyond the pale of professional respect and courtesy,*' that Mr. Syme regarded Mr. Lizars as placed in such circumstances towards him, that he Mr. Syme could not meet him in consultation or professional discussion, in consequence of the way in which he had been treated generally by Mr. Lizars on various occasions, and in particular, in reference to the subject in the letter." Our readers will remember the query of P<sup>r</sup> in the *Critic*, "You don't take it," and will reply with SNEER, "No, I don't, upon my soul;" and for ourselves, we undertake to say, that polling the opinions of Great Britain (we say nothing of Ireland), from Cornwall to Cape W<sup>r</sup>, there are not to be found therein twelve men endowed with ordinary reason, moderate acquaintance with their mother tongue, and unprejudiced minds, who, from this deadly nightshade of Syme's will extract this harmless extra Christison's. Well may the fame of Christison in poisons be European; for truly his alembic is miraculous! No jury in Britain save the present, we are confident, could be found, not a Jury of apothecaries, that mysterious la the depositaries of defunct lore—whose instructions are issued in hieroglyphics—whose injunctions to create pills on couched in Latin—reading this letter by the esoteric light of chemical preparations, and under the ban of dimin<sup>th</sup> prescriptions; not even they could have so woefully misapprehended.



The Lord Justice-General, who tried the cause, remarked to the Jury in his charge, that "if the passage does hold the pursuer out as a person of disreputable character in his profession, and as neither respected nor entitled to respect, *there cannot be the slightest doubt, that that is a serious imputation, and entitles him to reparation.* The defender was entitled to state why he did not enter into controversy with the pursuer; but he was bound to state so in proper language; and if, while professing merely to explain why he did not notice his comments, he has gone beyond proper limits, *and accused the pursuer of being disreputable, if he has done that, then he has committed himself and made himself responsible;* but that question always comes back to this—is that what is said? It is said that the language is ambiguous, and although he might have intended to explain himself, he has not made it clear, *and that people may not construe it in that way,* and therefore that he is liable in damages. It is of consequence to get at the meaning if you can. *A person is not entitled to use two-edged language in reference to another; nor even if he did not mean it in a double sense, but was careless in the use of his language, and thereby injured the other party, he is liable in damages."*

Under such circumstances, and with such instructions, did this intelligent British Jury retire to deliberate, and after, as the report states, "being absent for about twenty minutes, returned the following verdict—The Jury are unanimously of opinion, that no dishonourable motive was intended by the defender in publishing the letter; that the libel is not proven, and find for the defender."

It is a pity, for the sake of teachers and students of logic throughout the land, that Juries are not enjoined by Statute to append to their verdicts notes of the process by which they arrive at their conclusions, in the same manner in which the Judges in the Outer House are enjoined to append notes explanatory of their grounds of judgment. The present case would doubtless have afforded some novel and edifying rules in the science of exact reasoning. We have always been led to believe, that the existence or absence of intention constituted the difference between wilful murder and homicide. It now appears by parity of reasoning that this is a mistake, and that the intention, or presumed intention, converts the graver into the minor offence. If ever man was bound to be careful of his language in regard to his neighbour, that man was Mr. Syme in regard to Mr. Lizars. Conscious of the long and exacerbated feud between him and his rival, he should have scrutinized with more than ordinary care his weapons of offence, and cleansed them of the gall in which they could not fail to have been steeped. But he did not do so. He first rashly launched them at his foe, and even after they had been received on a friendly shield, and returned to him with a friendly warning, he fitted them afresh to his bow, and fired them with deliberate aim. It was only wanting for such a defence to find an appropriate Jury, and that a Jury has been found whose verdict has converted aggravation into extenuation, or rather into justification, will, we believe, excite the wonder and sympathy of all right-thinking men—wonder at its inconceivable absurdity, and sympathy with its victim.

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