

The Medical Practitioners Bill : a brief analysis of its oppressive and unconstitutional clauses, addressed to the Earl of Derby / by Charles T. Pearce.

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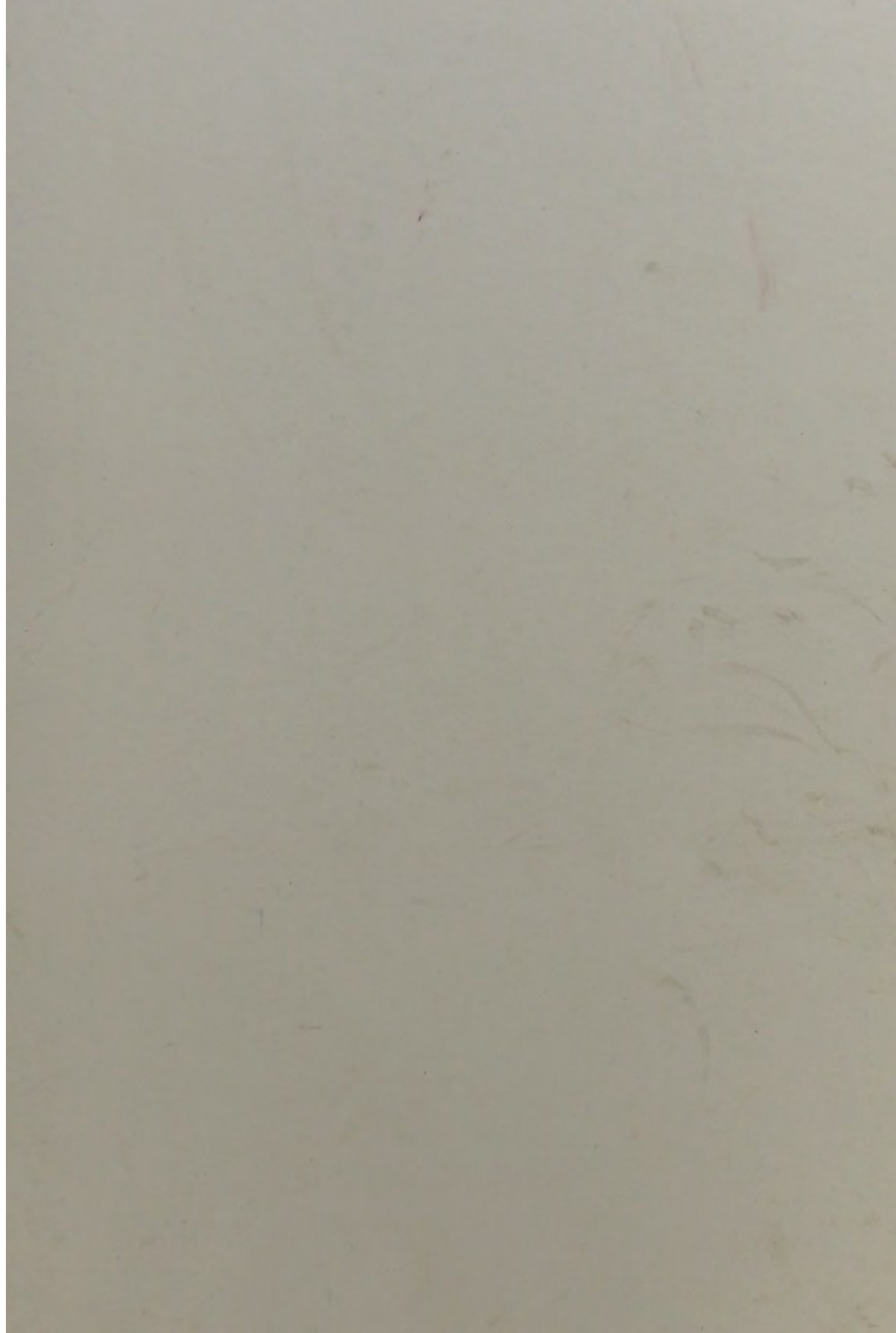
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THE 7
MEDICAL PRACTITIONERS
BILL:

A BRIEF ANALYSIS OF ITS OPPRESSIVE AND
UNCONSTITUTIONAL CLAUSES;

ADDRESSED TO

THE EARL OF DERBY,

First Lord of Her Majesty's Treasury.

BY CHARLES T. PEARCE, M.D.,

Member of the Royal College of Surgeons, England.

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THE UNIVERSITY OF CHICAGO

PHYSICS DEPARTMENT

REPORT ON THE PROGRESS OF WORK

FOR THE YEAR 1900

BY

ROBERT A. MILLER

AND

WALTER D. HENNING

OF

THE UNIVERSITY OF CHICAGO

CHICAGO, ILL., 1901

TO THE RIGHT HONORABLE THE EARL OF DERBY,

&c.

MY LORD,

I venture to address your Lordship on a subject of the deepest interest to a very large portion of Her Majesty's loyal people, and one to which I feel that your Lordship will not hesitate to give a few moments' attention.

The "Medical Practitioners' Bill," which recently passed the House of Commons, and which has been already read a second time in the House of Lords, threatens the liberties of the people to an extent which I feel sure your Lordship, in your known sense of justice, will not approve.

Before calling your Lordship's attention to the more objectionable *clauses* of the bill, I would beg to observe that it is highly dangerous, to students of medicine and medical practitioners, to invest a council with power to determine who shall practise medicine and surgery and who shall not: the Council itself being composed of delegates from and representatives of corporations, which not only have refused to grant their diplomas to medical men, "on account of their

homœopathic tenets," but the members of such corporations have refused to hold fellowship with legally qualified medical and surgical practitioners who either practice homœopathy, or meet in consultation a homœopathic practitioner,* denouncing the latter as impostors.

Clause xxi. provides that "If any registered medical practitioner shall, after due inquiry, be judged by the *General Council* to have been guilty of infamous conduct in *any professional respect*, the *General Council may*, if *they see fit*, direct the registrar to erase the name of such medical practitioner from the register."

Upon this I would observe that one of Her Majesty's surgeons, Professor Fergusson, of King's College, has been already denounced as having been guilty of "*infamous conduct*," in a "*professional respect*," for meeting in consultation a London physician who practises homœopathy, *because he practises homœopathy.*†

Clause xxviii. "Every person registered under this act shall be entitled to demand and recover in any court of law, with full costs of suit, reasonable charges for professional *aid, advice, and visits*, and the cost of any medicines or other medical or surgical appliances, rendered and supplied by him to his patients."

Clause xxix. provides that "*No person shall be entitled to recover any charge in any court of law for any medical or surgical advice, attendance, or for the performance of any operation; or for*

* The following resolutions were passed by the British Medical and Surgical Association, at a recent meeting of that body in Bedford.

"Resolved—That so long as a system has no higher philosophy than the jargon of *similia similibus curantur*, it is degrading to a man of education to be connected with it. He, therefore, who consents to consultation with homœopaths, be they impostors or dupes, forfeits the respect of his professional brethren, and his membership of this branch of the British Medical Association."

"Resolved—That is the opinion of this meeting that no honourable man, whether physician or surgeon, can meet in consultation a homœopathic practitioner, or as such act in conjunction with him."

† See the *Lancet* and *Medical Times*, for May and June.

any medicine which he shall have both prescribed and supplied, unless he shall prove, upon the trial, that *he is registered under this act.*"

In virtue of this and the preceding clause, only those who are registered under this act *shall recover payment for work done*; while they shall not recover for work done, unless they have disgraced themselves, and sacrificed their honour by registration in the ranks of a licensed fraternity of calumniators.

I submit, my Lord, that surely the labourer, the work-doer, in the medical and surgical sense, "is worthy of his hire," whether registered or not registered.

Such a law as that proposed might thus give license to a dishonest man, *being registered*, to impose upon a patient, or *legally enforce* payment from a distressed man; while the honest-hearted practitioner, *not being registered*, may be liable to be dealt unjustly with by the patient, who takes advantage of *the law to avoid payment for services rendered*.

I submit, my Lord, that medical men who deal in jalap, salts, &c., should be regulated by the same laws as tradesmen who deal in tea and sugar. No exclusive privileges should be possessed by men who form themselves into "Trades' Unions," such as the British Medical and Surgical Association.

I now come, my Lord, to the most objectionable, the most disreputable, the most oppressive clause which this bill contains; the most oppressive because it aims at interfering with the liberty of the subject in the choice, the election of their medical attendant.

This great country, as your Lordship is aware, abounds in friendly societies, founded and maintained by working men for their mutual preservation from want—to assist each other in times of sickness, infirmity, and old age. These societies elect their medical attendant; they exercise their privilege in favour of the man of whose skill they have had opportunity of judging; they, in very many instances, have elected *homœopathic practitioners*, and the writer holds three such appointments. The following clause aims at depriving *those thousands* of their present medical attendant, and enforces upon them a *registered bigot*, who will physic them after the fashion ordered by a medical council.

The same clause aims also at depriving the writer and many others of their appointment, as physician or surgeon to any *hospital, infirmary, dispensary, or lying-in hospital*. I hold one of such appointments; and, if I am not registered, the poor for whom I have for many years laboured, must be deprived of my medical aid.

The Clause xxxii. runs thus :

“No person shall hold any appointment as a physician, surgeon, or other medical officer, either in the military or naval service, or in emigrant or other vessels, or in any hospital, infirmary, dispensary, or lying-in hospital, not supported wholly by voluntary contributions, or in any lunatic asylum, jail, penitentiary, house of correction, house of industry, parochial or other workhouse, or poorhouse, parish union, or other public establishment, body, or institution, or to any *friendly or other society for affording mutual relief in sickness, infirmity, or old age*, or as a medical officer of health, *unless he be registered under this act.*”

The next grievance I have to lay before your Lordship is contained in clause xxxiii., which enacts that

“No certificate required by any act now in force, or that may hereafter be passed, from any physician, surgeon, licentiate in medicine and surgery, or other medical practitioner, shall be valid, unless the person signing the same be registered under this act.”

The retrospective bearing of this as well as of other clauses, is, I maintain, unjust to those, like myself, who have been legally in practice for years, and whose certificates have been hitherto accepted as legal documents.

I refrain from commenting on clause xlix., which provides that “the Council shall determine what medicines, and the compounds, and the manner of preparing them, with the true weights and measures by which they are to be prepared and mixed,” the people shall swallow; simply because there is a growing distaste among the people for drugging; and all the state doctors in Great Britain shall never compel the patient to swallow the Council-prescribed preparations.

The crowning clauses of the whole bill are xxxvi. and xxxvii., which provide as follows:

“Any person who shall wilfully take or use the name or title of a physician, doctor of medicine, surgeon, or apothecary, *implying* that he is *registered under this act*, or that he is recognized by law as a physician or surgeon, or practitioner in medicine, or an apothecary, shall, upon a *summary conviction*, pay a sum not exceeding twenty pounds, nor less than five pounds”;

or, in default, (clause xxxvii.) BE COMMITTED TO PRISON *for a term not exceeding three months.*

This, my Lord, is visiting with consummate vengeance those independent individuals now prac-

tising, or who may hereafter do so; who, although they have received a medical education of the most fitting nature, shall offer conscientious objections to be implicated with the *registered* practitioners. Self-respect and justice to some hundreds of fellow-practitioners of homœopathy in Great Britain, and five thousand in Europe and America, will prevent me from associating myself by registration with men who brand us “impostors”—men as highly qualified and more gifted than their denunciators, because of their adoption of a law of healing which they believe to be founded by an all-wise Creator—a law, fifty years’ experience of whose operation in healing diseases has confirmed.

I cannot consent to be deprived of my present legal qualification to practise under a bill retrospective in its operation, oppressive and tyrannical in its proscriptions, at once a disgrace to the faculty who seeks it and to the nation who should adopt it.

Should the bill become law, I have reason to know that many thousands of Her Majesty’s subjects will resist the operation of the measure; maintaining that it is as much the people’s right to select their medical adviser as to choose their schoolmaster; believing that their judgment of a man’s skill is best founded on their experience of that skill, than on any merely legal qualification which the practitioner may hold.

I ask, my Lord, that the bill, which has not been sought by the people, but by a bigoted faculty, be honourably withdrawn from the House of Peers, or

that it be rejected by such a majority that shall convince the enemies of progress in medical matters, and give assurance to a loyal, free people, that it is vain to attempt to interfere with their much loved and much envied liberties.

My Lord, I humbly submit that legislation on medical subjects is neither necessary, politic, nor just. In the language of the *Westminster Review*, "To make the regulations and government of the profession of healing a department of state, is to violate the right of English freemen, whether doctors or patients; to encourage the public to depend on state-authorized testimonies of competency, instead of scrutinizing the qualifications of its physician; to establish a medical orthodoxy; and thus, striving after uniformity of doctrine and practice, to brand new ideas with the opprobrium of heresy, and novel practice as reckless experiment, and therefore to retard the progress of medical science."

My Lord, I cannot bow to the *Baal* which the Council bids me worship, though the consequences of my non-acquiescence should be to pay a fine, or be incarcerated in gaol; powers to carry out such persecution being provided by the bill against which I here enter my solemn protest.

Should the bill become law, an address will be submitted to the throne, signed by at least *a hundred thousand persons*, who are determined not to be dictated to by a medical priesthood.

Trusting that your Lordship will use your powerful influence in Her Majesty's Government and in the House of Peers against the passing of so unjust and dangerous an act,

I remain, my Lord,

Your Lordship's faithful servant,

CHARLES THOMAS PEARCE,

M.D., M.R.C.S. ENGLAND.

Northampton,

July 17, 1858.

APPENDIX.

*To the Right Honourable the Lords Spiritual and Temporal, in
Parliament assembled.*

May it please your Lordships—

*The Petition of CHARLES THOMAS PEARCE, residing in the Town of
Northampton, in the County of Northampton, Doctor of Medicine,
and Member of the Royal College of Surgeons of England*

Humbly Sheweth

That there is now before your Lordships' House a Bill intituled "An Act to regulate the qualifications of Practitioners in Medicine and Surgery," which, if passed into law, will inflict injustice on your petitioner and on many hundreds of Her Majesty's subjects engaged in medical practice.

That your petitioner being already, and for some years past, legally qualified to practise throughout Her Majesty's dominions, deems it a grievance to be deprived of such right, in the event of your petitioner declining to register under the provisions of the said bill, and subjected to fine, or "imprisonment not exceeding three calendar months."

That the said Bill enforces no penalty against such persons who, having received no medical or surgical education, such as chemists and druggists, are permitted, without let or hindrance, to prescribe and practise medicine, provided that such persons do not *call* themselves Physician, Surgeon, or Apothecary, *implying* that they are registered under said bill.

That your petitioner, being a Homœopathic practitioner, and one of several hundred legally qualified medical men now practising Homœopathy in Her Majesty's realms, cannot register under such bill, seeing that the medical council to be appointed under the provisions of the said bill is empowered to publish a pharmacopœia,

prescribing the legal preparations, with their weights and measures, to be employed in this country,—preparations which your petitioner has not employed for many years in medical practice, nor can he consent to do so.

That by clause xxxii. of said Bill, it is provided that medical practitioners, *not being registered*, are to be incapable of holding appointments as medical officer to any Hospital, Dispensary, or *Friendly Society*. Your petitioner holding several such appointments, he deems it a hardship to be deprived of such, and an unconstitutional interference with the liberty of the subject in the selection of a medical attendant.

That your petitioner suggests that it is highly dangerous to empower a Medical Council to determine *who among Her Majesty's subjects shall practise medicine and who shall not practise*; such Council being composed of delegates of existing corporations, known for their obstinate resistance to new methods of cure, and their persecution and rejection of homœopathic practitioners, of whom your petitioner is one.

That your petitioner suggests that the object sought professedly by the bill, namely, *registration*, is amply provided for in the Medical Directories now published annually; and that legislation on medical matters has not been sought by the people of England.

Your petitioner humbly prays your Lordships' House that the said Bill may not pass into a Law.

And your petitioner will ever pray.

(Signed,)

CHARLES THOMAS PEARCE.



