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THE CASE

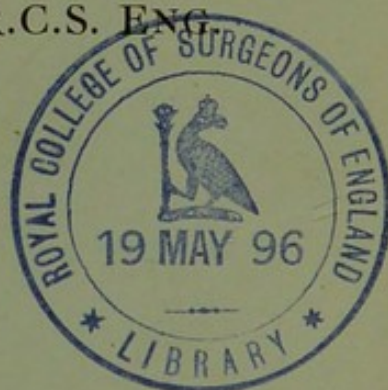
FOR THE

MEMBERS OF THE ROYAL COLLEGE

OF SURGEONS OF ENGLAND

BY

W. G. DICKINSON, M.R.C.S. ENG.

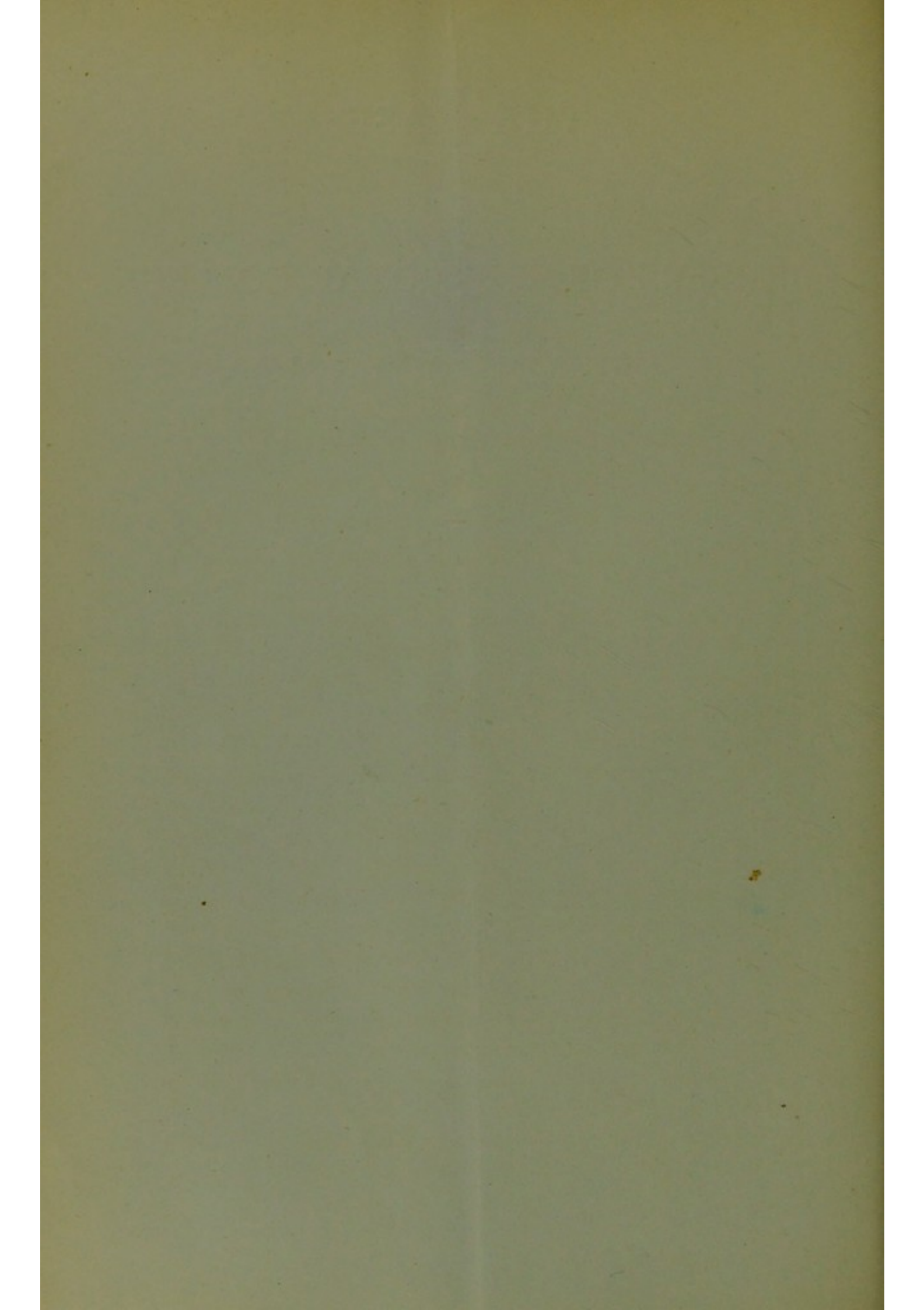


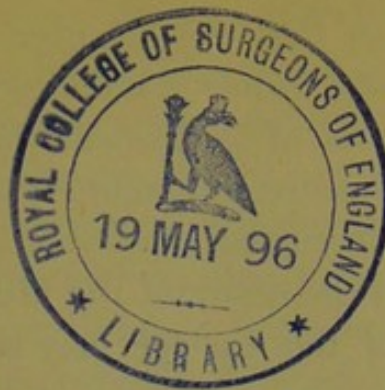
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THE CASE FOR THE MEMBERS OF THE ROYAL COLLEGE OF SURGEONS OF ENGLAND.

By W. G. DICKINSON, M.R.C.S. Eng.

"THE Royal College of Surgeons of England consists of about 18,000 Members, of whom about 1200 are Fellows. The Governing Body consists of a council of twenty-four Fellows elected by the Fellows. Three members of the Council retire every year and are eligible for re-election." These are the opening words of a statement from the College Council to the Lord President prior to the granting of the last Charter in 1888, and with the exception that there are not now more than 16,000 Members on the Register, many of whom are abroad or have no known address, this statement concisely expresses the facts. The main fact which it will be the object of this paper to emphasise is that "*The Royal College of Surgeons of England consists of . . . the Members*". This cannot be said of the sister College of Physicians, the Apothecaries' Hall, nor I believe of any of the other numerous licensing bodies. The Members of the College of Surgeons therefore occupy by law and by Charter an unique position, and their case with regard to the government of their own College deserves special consideration.

It is well known by all those who have taken any interest in the subject that the College dates its existence from the

Charter of 1800, by which it was incorporated under a slightly different title; also that this Charter was obtained by the Governing Body of a former Corporation of Surgeons established in 1745 by Act of Parliament, but which had become dissolved in consequence of a failure to observe the provisions of its Act. This occurred exactly a century ago, and it is from this date that the desire of the Members to take part in the government of the College may be said to have originated.

The old Governing Body tried to obtain an Act to replace the one which they had forfeited; this was strongly opposed by the then Members, on the ground that it would give the irresponsible Governors absolute dominion over the property of the whole Corporation, and was ultimately thrown out by Parliament. Three years later the Charter of 1800 was obtained by Court influence, and against the wishes of the Members, containing most of the obnoxious provisions of the rejected Act; under this the Governing Body was self-elected. The next Charter of importance was that of 1843, which created the order of Fellows by the wholesale appointment of 300 Members; these were described as "a new class of Members," and have subsequently for the most part been elected by examination; from this body the Council was and is exclusively chosen, although for many years less than a sixth part of the electorate troubled to vote.

Now the point to be observed is that although those who were responsible for these Charters were either hostile or indifferent to the claims of the Members, the corporate rights of these were found unassailable, and in fact were specifically confirmed. The Charter of 1800 in its very first provisions confers upon the Members four distinct rights, none of which have or can be taken away:—

1. That they shall be henceforth and for ever after one Body Corporate and Politic by the name of the Royal College of Surgeons.

2. That they shall have perpetual succession and a Common Seal, with power to break, alter, and make anew the said Seal.
3. That they may as one body implead, and be impleaded before the Courts.
4. And that they shall be at all times and for ever after persons able and capable to take, purchase, etc., a hall or council house with its appurtenances for the use and purposes of the said College, together with other lands, rents, etc.

It is abundantly clear from this that the whole property of the College belongs to and is vested in the Members, and that the Council is their managing or executive committee.

Now what the Members have asked at various periods during the century, and will continue to ask, is that they should be admitted to some share in the appointment of those who manage—and sometimes mismanage—their property. It can hardly be said that this is an unreasonable demand.

It may be thought that the Charter of 1843, which created the Fellows, conferred upon them rights which would conflict with those above stated belonging to the Members. This, however, is not the case. The new Order were given no stake whatever in the property of the College, nor was it vested in them; but a clause was inserted conferring the Membership on any Fellow by examination who is not already a Member. It is only, therefore, inasmuch as they are also Members that the Fellows have any interest in the College property. Enough has now been said to prove that *de jure* "The Royal College of Surgeons of England consists of the Members"; *de facto* it has consisted only of the twenty-four members of the Council, and the few Fellows who took the trouble to elect them. It will now be necessary to briefly sketch the more recent history of the College for the benefit of those Members who may not have followed the course of events.

Just twelve years ago the attention of the public and the profession was drawn to the College in consequence of the munificent bequest of Sir Erasmus Wilson. This necessitated an application for a new Charter, as the College was only empowered to hold property of the yearly value of £2000. A meeting of Fellows and Members was called by the Council to consider the provisions of the proposed Charter, and it was urged both then and at subsequent meetings that advantage should be taken of this to confer on the Members some of their inherent rights of control which had been so long withheld from them. The main points contended for were: (1) that no alteration should be effected in the constitution and external relations of the College without the consent of the Fellows and Members; (2) that there should be a statutory annual meeting at which the report of the Council should be received and, if approved, adopted; (3) that Members as well as Fellows should take part in the election of the Council, and that a limited number of Members should be eligible to the same. These proposals were summarily rejected by the Council, although carried by large majorities year after year at the annual meeting.

At about the same time (1884) two Associations came into existence—one of Fellows and one of Members—having for their object the reform of the antiquated *régime* at the College. In 1887 the Association of Members, finding it impossible to persuade the Council to meet the wishes of the Corporation, so frequently expressed, organised a petition to the Privy Council against the new Charter; this was signed by nearly 5000 Members, and the Lord President received a large deputation supported by several members of Parliament. The official influence, however, proved too strong, and the Charter of 1888 was granted, allowing the College to hold additional property, but omitting all the disputed points.

The Members were naturally somewhat exasperated at this, and a Draft Bill was framed for presentation to Parlia-

ment which would, if proceeded with, have placed the government of the College on a rational footing. In an evil moment, however, it was decided to test the legal rights of the Members, that of meeting in the College being selected.

An application was made (in January, 1889) to the Council to call a meeting of the Corporation to consider the proposed legislation; this being refused the secretaries of the Association of Members themselves advertised a meeting at the College on a certain date. Such advertisement was an infringement of bye-law xvii., and the Council threatened pains and penalties for all concerned, besides ordering the College to be closed on the day named in the advertisement. When this arrived the edifying spectacle was seen of a crowd of M.R.C.S. in Lincoln's Inn Fields refused admission to their own College, which was packed with police! The Members, however, by previous arrangement adjourned to the Holborn Town Hall and there held their meeting. It was here that the lawyers first appeared upon the scene, and that it was decided to test the validity of the bye-law in the law courts.

It is hardly needful to enter into the details of the tedious and costly legal proceedings which ensued. It may suffice to say that the case is known as "*Steele v. Savory*," and it was not until January, 1892, that judgment was given against the Members by Mr. Justice Romer. Long before this the majority of the Members' Committee had convinced themselves that the action was a mistake; they were, however, persuaded to go on with it by a small but persistent section of their body.

The result of the trial was disastrous to the cause of reform, as it broke up the Members' Association and to a great extent alienated that of the Fellows, thus leaving the Council masters of the situation. The Members who had interested themselves in the matter lost heart, and the next two or three annual meetings were but thinly attended. In 1894, however, the Council announced their intention of strengthen-

ing the penal clauses of their bye-laws, and got a resolution approving of this passed without notice at the meeting of Fellows and Members. Some of those, however, who had previously belonged to the old Association met together and started a new "Society of Members" under the presidency of Mr. Joseph Smith. The Committee of this society having examined the proposed changes in the bye-laws, found them open to strong objections, when considered in the light of the antagonism or indifference to the Members' interests which had always been shown by the Council. They therefore petitioned the Home Secretary (whose sanction for the alterations was necessary) against the proposals of the Council. In May, 1895, Mr. Asquith gave his decision, which was adverse to the changes in the form desired by the Council. He pointed out that these not only would give the latter greater power than is possessed under the Medical Acts by the General Medical Council, but would leave any action by the College Council against the Members wholly uncontrollable by any court of law.

The "Society of Members" may therefore take credit for having prevented a totally unnecessary increase of the Council's powers, while in the words of the latter's own report "the objects contemplated by the Council in applying for the alteration of the bye-law have been attained".

The indirect results of the Members' vigilance on this occasion have been of equal, if not greater importance. The Council shortly afterwards appointed a Committee to receive a deputation from the Members' Society in reference to the provisions of a proposed amended Charter. This deputation attended in July last, and brought forward proposals practically identical with those made in 1884.

The manner in which it was suggested that the Members should be represented was as follows:—

"That the number of the Council be increased to thirty-two, and that eight of these *may* be Members, and shall be

elected by the Members only, provided that no Member who has not been a Member for twenty years shall be eligible for a seat on the Council". This it will be seen in no way interferes with the existing Fellows' representation.

The Members' proposals were subsequently carried, almost unanimously, at a well-attended annual meeting in November last. The Council then decided to submit the one above quoted to the half-yearly meeting of Fellows in January of the present year. To the surprise and chagrin of the supporters of the present system the principle of the proposal was carried by an overwhelming majority in a full meeting; the resolution being: "That it is desirable to give the Members of the College direct representation upon the Council". This resolution is of the greatest importance, as it entirely takes away the stock argument of the obstructives, *viz.*, that it is undesirable to diminish the privileges of the Fellows by depriving them of the exclusive right of electing the Council. The Fellows have now placed it on record that they value their Fellowship as an academic distinction, and not as giving them the right to exclude their 16,000 brethren from all share in the government of their common property. Like Balaam they were called to curse the proposal, but they chose to bless it.

Now it must be borne in mind that the Fellows constitute the present electorate; the Council referred a specific proposal to them, and they have passed an unequivocal vote in favour of its principle. This being so it might be thought by those unacquainted with the ways of the Council that this body would take some steps towards carrying out the mandate of its constituents, or at least would have taken a poll of the Fellows on the question. This, however, does not at all commend itself to the views of those gentlemen whose notion has always been that "the Royal College of Surgeons of England consists of the *Council*". They first of all determined to take no action upon the Fellows' vote until they themselves have decided whether or not it is desirable to admit Members

to representation, and then in the present month (March, 1896) they pass the following ridiculous resolution: 'That as the Members of this Council represent the body corporate of the Royal College, and consequently its Members as well as its Fellows, it is the opinion of this Council that no further representation is desirable'. This of course begs the whole question. Assuming the very point in dispute to be settled by their "sovereign grace and mere motion," as the old Charter has it, they forthwith decide against the Members' claims in the teeth of the almost unanimous vote of their own constituents. How does the Council represent the Members? It is not elected by them; it takes absolutely no interest in them individually or collectively, unless it sees a chance of inflicting a penalty under the bye-laws. It does not represent their views in any single respect, and treats the resolutions which they pass year after year with the most unvarying contempt. It has never tried to obtain powers to protect their interests against quacks, herbalists, bone-setters *et hoc genus omne*. It has squandered the funds vested in them with the most careless prodigality, and without the slightest reference to their wishes or opinions. In short, one could hardly quote a grosser case in ancient or modern times of *mis*-representation than that of the Council and the Members of this College.

In this connection the well-known fact that the Members provide the greater part of the income of the College must be borne in mind. In the last financial report over £16,000 out of a total of £26,000 is stated to have been derived directly from Members' fees; the balance being mainly furnished by the dividends from the Erasmus Wilson Bequest.

It may however be asked *Cui bono*? The Members have done without representation for a century, why give it them now? The reply is that it would have been very much better for the College, as an institution for the promotion of the Science and Art of Surgery, and for its Members, if the latter had been encouraged by means of representation to take an

interest in it. How can the Science and Art of Surgery be promoted except through and by means of those who practise it? Anything which tends to draw these together furthers the main object for which the College was founded. More than this, the Members should be able to look to the Council for advice and assistance in their difficulties with outsiders, as well as to expect censure when they themselves deserve it. The latter would come with tenfold more force from a Council on which the Members were represented than from one which they have always found hostile or indifferent to their interests. And the same argument applies to all dealings of the College in its political capacity with the Government or with other institutions. The Council has agreed to submit matters affecting the external relations of the College to the Fellows and Members; but these have no practical control over the policy proposed, and their resolutions are quoted or ignored according to whether they happen to agree with the Council's views or otherwise.

The fact is that the Council and the Members have no common interests, and they regard the College from different points of view. The Council look upon it solely as an educational and scientific institution; the Members—or rather those of them who have not become utterly indifferent owing to long-continued neglect—say that it is something more than this. They say that it is a Corporation composed of those who, in the words of their diploma, have been “found fit and capable to exercise the Art and Science of Surgery,” and who constitute the great bulk of the general practitioners in this country; that as such it has a great future before it, if its government be placed on a popular basis, in taking a leading part in the organisation and protection of a hitherto sadly disunited profession.

Our profession is now rousing itself to deal with many evils which have arisen within its ranks. It has recognised that in order to combat these local action is necessary, but

also that, without some central tribunals of ethical control, local action will fail. Dr. Wilks has conclusively shown in these pages that the General Medical Council is a government department and not an ethical tribunal; further, that any amendment of the Medical Acts enlarging its functions is very improbable.

The British Medical Association is a voluntary body without legal powers.

Recourse must therefore be had to the great Medical and Surgical Corporations, which already possess powers of control capable of being increased if necessary. It is, however, essential that these Corporations should possess the confidence of the profession, which can never be the case while their government is in the form of an irresponsible oligarchy. It is only fitting that this, the greatest Corporation of them all, should be the first to place itself in line with modern requirements.

The case for the representation of Members rests then mainly on their rights as actual owners of the College property, but also on policy and expediency. It is not pretended that *all* the Members claim to exercise their rights, but if any considerable proportion are still willing (as it is believed they are) to interest themselves in their College, the Council ought to be only too ready to welcome their support.

It need hardly be added that in the above references to the Council, allusion is made only to that section of it which has hitherto for the most part had the control of its policy. It is a matter for congratulation that the progress of more liberal views as to the confidence to be placed in the Members has been of late very marked upon that body, and it is even doubtful whether (in spite of the recent adverse decision) those who are willing to concede the Members' claims under reasonable limitations do not at the present time form an actual majority.

This paper having been written from a Member's point of

view, only casual allusion has been made to the efforts which have been simultaneously and often successfully carried out by the Fellows for the improvement of the administration of the College. It would, however, be ungracious to conclude without an expression of gratitude to them for the hearty support which they have now decided to give to the cause of the Representation of Members.



Society of Members of the Royal College of Surgeons of England.

President, - - Mr. JOSEPH SMITH, M.R.C.S.

OBJECTS.

(A) To arouse and maintain among Members of the R.C.S.Eng., a permanent interest in their College, by obtaining for them a share in its management.

(B) To promote an amendment of the Charters of the College which shall permit the Members to take part in the election of the governing body.

(c) While seeking primarily to further the interests of Members, to co-operate with the Fellows' Societies in obtaining such reforms as are possible under the present Charters.

(D) Generally to promote the true welfare of the Corporation by bringing the Council, Fellows, and Members into harmonious action.

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