

A short address to the professors of surgery throughout His Majesty's dominions, on the Bill lately brought into Parliament for erecting the Corporation of Surgeons in London into a College / by a Member of the Corporation.

Contributors

Royal College of Surgeons of England

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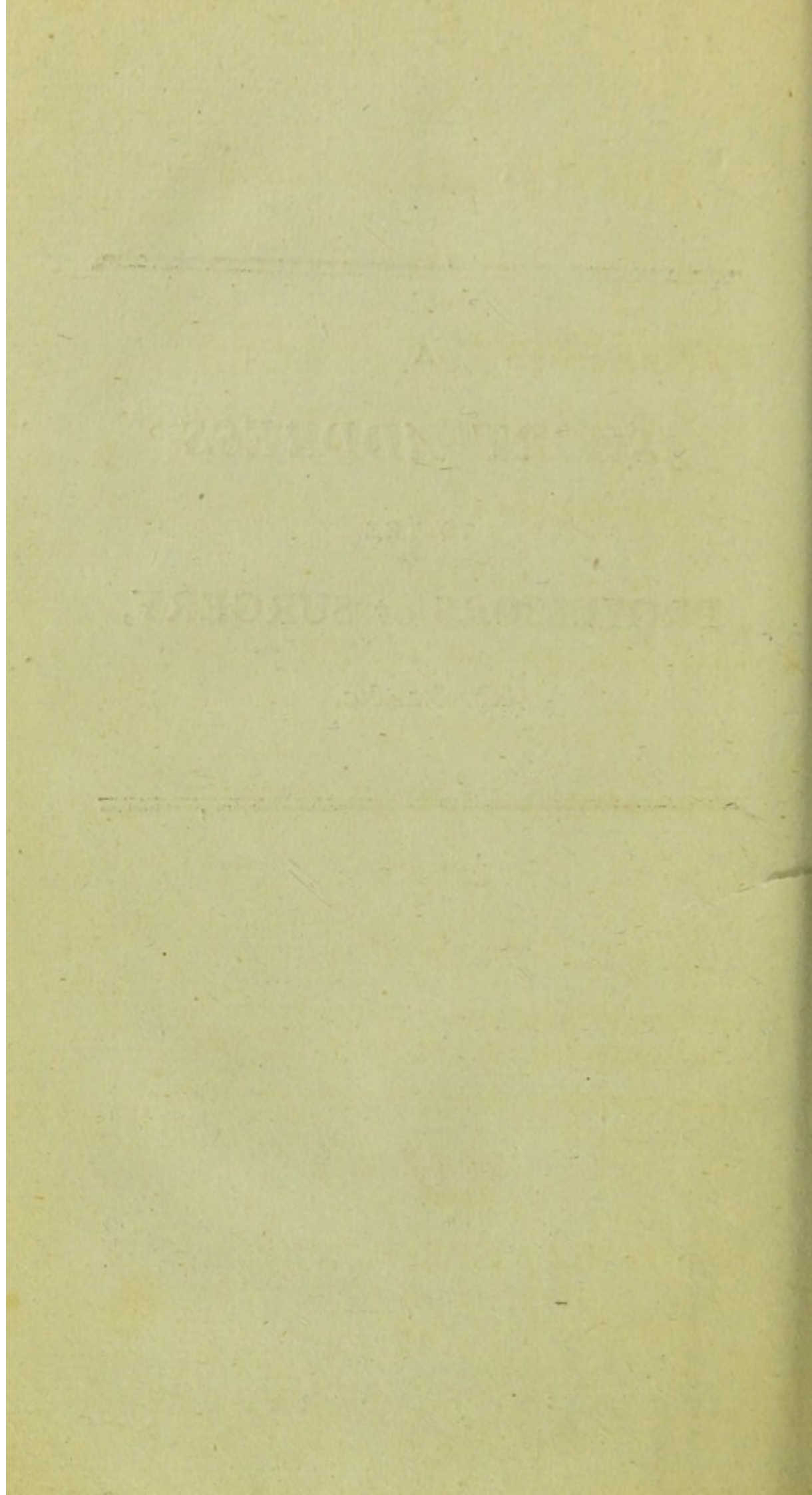
A

SHORT ADDRESS

TO THE

PROFESSORS OF SURGERY,

&c. &c. &c.



SHORT ADDRESS
TO THE
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THROUGHOUT
HIS MAJESTY'S DOMINIONS,
ON THE
BILL LATELY BROUGHT INTO PARLIAMENT
FOR ERECTING THE
CORPORATION OF SURGEONS IN LONDON
INTO
A COLLEGE.

By A MEMBER OF THE CORPORATION.

1797
London.

PRINTED FOR J. SEWELL, CORNHILL.

THE HISTORY OF THE

OF THE

PROFESSOR OF SCIENCE

OF THE

HIS MAJESTY'S UNIVERSITY

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success, he will feel conscious that his intentions were irreproachable, and will naturally expect that, under such circumstances, the faults and inaccuracies of his diction will meet with liberal treatment, except from severe cavilling critics, and those he will despise. The writer of the following pages neither courts applause or fears censure; but respectfully intreats your attention to certain facts which deserve your consideration as professors of that noble Art which justly may be deemed the Twin Sister of Physic.

When the ardor of triumph, which the rejection of what is called the Surgeon's Bill occasioned, has subsided*, cool reasoning

* It has been urged in objection to the bill that it was a clandestine affair. To do a thing clandestinely implies the doing a thing secretly, lest it being publicly done should fail of the success proposed. How can this apply to the Surgeon's Bill presented for the consideration of the Lords and Commons of Great Britain in Parliament assembled? A Bill obviously

soning may be attended to ; then the objections to the bill, and the light in which Surgeons are placed by the opposition which effected the rejection, will be viewed in their true colours ; and, perhaps, excite a glow of indignation for the degraded state the Profession of Surgery is thereby reduced to.

By an impartial perusal of the Bill, you will find it meant to transfer the rights, privileges, &c. (with certain extension of them) now vested in the Corporation of Surgeons by the 18th of Geo. II. to a body corporate and politic, under the name of the Royal College of Surgeons in London. The management and control of the business and affairs of the college were to be conducted by ten censors and eleven counsellors (among

obviously intended to aggrandize the profession of Surgery, and place it on the same honourable footing it stands on in Scotland and Ireland.

the cenfors were included the president and two vice-presidents); nearly as the management and control of the business and affairs of the Corporation of Surgeons are now placed in the master, wardens, and court of assistants. The modes of electing officers for the transaction of the College business were to be similar to the regulations laid down for the election of the master, wardens, and court of assistants of the Surgeon's Company. The counsellors in the one were intended to enjoy (as the members of the court of assistants do in the other) their offices during their natural lives, or until they should voluntarily resign or be removed therefrom, pursuant to the bye-laws, rules, and constitution. Such regulations do away the erroneous idea that the counsellors were not only to hold their places for life, but the office was to be hereditary, and to descend to their sons; whereas the election of counsellors was to be by ballot, and the elected removeable

removeable either by resignation or by the bye-laws, precisely as the rules of the Company now ordain for the election, &c. of the court of assistants. The number of officers named for transacting the business of the College were twenty-one; for that of the Company are twenty-four. Notwithstanding the objections made to this alteration, I believe it will be generally acknowledged that the public business of all corporations is best conducted where there are the fewest managers, provided there are a sufficient number of them to form the respective courts: therefore the intended alteration in the number of governors I must consider as an improvement. I trust that the names of president, vice-presidents, censors, and counsellors, will no longer be considered the mighty bugbears they have been represented; especially as it does not appear that any other pecuniary emoluments were to be attached to those officers than are now enjoyed by the master,

master *, wardens, and court of assistants.

The increase of powers the bill craved were, Liberty to purchase to the amount of 1000l. per annum instead of 200l.; to extend the jurisdiction of the Corporation to ten miles round London; and to levy a fine of 10l. instead of the present fine of 5l. on all those who should practise Surgery within London, and ten miles round, without permission of the College. The praying to be enabled to purchase buildings or lands to the amount of 1000l. per annum, argues the prosperity and increase of the Company's funds, to which none can make any reasonable objection, although many have been very violent in their declamations against our Governors for disposing of the Hall, and purchasing the house in Lincoln's-Inn

* I am credibly informed that the fees of office do not average more to each gentleman than 30l. per annum.

Fields ;

Fields; a purchase certainly exceeding the limits prescribed to the Corporation by the 18th of Geo. II. but reflecting honour on the Company. There are those who consider the Hall to have been a freehold, in which every individual member had a property, and that it was a most atrocious infringement of that property to part from the Hall without the consent of a general meeting of the members, which ought to have been called for that express purpose. It requires no great depth of legal knowledge to refute such arguments: I grant that the Hall was a freehold, built at the expence and for the use of the Corporate Body, under the name of the Master, Governors, and Commonality of the Art and Science of the Surgeons of London. The representatives of the Corporate Bodies are the master, wardens, and court of assistants for the time being, to whom the freehold descends by the usual deeds of conveyance, and to whom is delegated
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by Letters Patent and Acts of Parliament the government and controul of the Company's affairs, consequently any freehold that may be invested in them, can only by them be disposed of; therefore there was no need to convene a general meeting for the purpose of asking assent to a measure the Representatives of the Corporation were fully impowered to adopt.

Some Members of the Company imagine, that the quarterage paid by them, being collected for building the Hall and keeping it in repair, entitled them to a right of possession in the building equal to a freehold, from which they could not be dispossessed without their consent.

Admitting the object for quarterage to be as stated, it could constitute no manner of possession of the premises; for no right of possession can be said to exist that is not established by law. If any set of men should choose to subscribe to the erecting
a tem-

a temple in Vauxhall-gardens, to be set apart for their sole use, and quarterly contribute what may be necessary to keep the building in repair, they cannot prevent the sale of the freehold of which the building has become a part, their assent not being required to make good the purchase.

Many have thought it would have been proper to have taken the sense of a general meeting on the expediency of disposing of the Hall. If there existed any doubts on the propriety of the measure, where could those doubts be more sedately considered, and every circumstance relative to them be more impassionately weighed and deliberated on, than in a Court of Assistants formed by men of unblemished honour and integrity?

The public opinions delivered in common halls are well known to be generally productive of passionate declamations, in-

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terspersed with reflections and remarks that too frequently give rise to inveterate enmities, jealousies, and those trains of passion that are disgraceful to all, but to surgeons particularly so. Surgeons are but men, and, *humanum est errare*, were they to discuss in public the business of the Corporation, I fear they would share the fate of their brethren in the *Ars Medendi*. The wits of the time would amuse the public with sarcastic remarks on their proceedings, and perhaps the profession become degraded by the engendered passions of the professors. Therefore let us, as long as possible, avoid convening public meetings; and while we have (as now is our boast) gentlemen of the first rank in their profession, and of the most perfect rectitude and upright intentions for our Governors, be satisfied, that whatever is done by them in a corporate capacity, is done for the honour of the profession at large, and for the general good of mankind. The art of Surgery is surely
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of equal importance to mankind as that of Physic, therefore deserving equally to be honoured ; but from causes that is not material here to insist on, is practised by few with that marked respect it is entitled to : and perhaps one very essential reason of that distinguished pre-eminence the custom of the world allow to Physicians, is the blending the business of an Apothecary with the practice of Surgery ; this I cannot but consider a union degrading in the eyes of the world the dignity due to the art of Surgery. I readily acknowledge, as an incontestible fact, that Apothecaries are a class of people truly meriting the most respectful attentions ; many individuals are gentlemen of the most unexceptionable characters, second to none in medical and chirurgical abilities ; but their business as Apothecaries is subordinate to the more noble art of Physic and Surgery, therefore highly proper that the bye-laws of the Company should preclude those Surgeons who practise as

Apothecaries, however shining their surgical talents may be, from being elected as Governors of a body incorporated for the honour and welfare of the art of Surgery only.

Many Members of the Company have, in tones of exultation, declared that, by the purchase of the house in Lincoln's Inn Fields, we have forfeited our charter, &c. and that our Corporation is dissolved. Notwithstanding the confidence with which these assertions are made, I cannot believe that facts warranted them: The purchase in question may have exceeded the bounds limited by the Act in the 18th of George the Second; and what exceeds the limitations there prescribed, may be liable to be seized by the Crown under the Mortmain Acts; but as the community at large have not in any way been injured by the purchase which was made to do honour and service to the Corporation, I am persuaded,
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on an application to the Crown in the forms usually in such cases observed, that the forfeiture incurred will be remitted, and the purchase (if the conveyances, as they now stand, should render such application necessary) be legalized.

The intent of extending the jurisdiction of the Corporation three miles beyond its present bounds, and doubling the fines of 5*l.* on those who should practise surgery without a diploma, would scarcely in themselves have been objected to, had they not been found to be very conveniently adapted for introducing into conversation a torrent of abuse against the bye-law which ordains, that no one shall practise Surgery within London and seven miles thereof, without previously having passed examination by the Court of Examiners at Surgeons'-Hall, and having obtained from thence a grand diploma. That law has been represented as a most tyrannical, oppressive, monopolizing attempt

tempt to preclude gentlemen of the army and navy from practising their profession in London or the neighbouring villages: However clamorous the gentlemen who opposed the Bill may have been on that subject, I do not despair of convincing those who are disposed impartially to investigate that bye-law, that the right it declares is so constitutionally engrafted on the Corporation, that the master, wardens, and court of assistants of the Company would have been exceedingly culpable if they had omitted to insert that right in the Bill they brought into Parliament; and further, that depriving the Corporation of that right would be highly impolitic, and that Lord Thurlow, in his attempt to that purpose, has acted inconsistent with the approbation of the right his Lordship solemnly gave a few years ago.

There is one position I must lay down, which the most strenuous opposers of the
Bill

Bill will admit to be a truism that needs no arguments to prove or illustrate ; it is that the Governors of the Company are bound to maintain, to the best of their power, all the rights, privileges, and immunities, &c. granted to the Corporation. If this is an incontestible truth (which I think no one can deny), it follows, that if the Governors of the Company had succeeded in their attempt to convert the Corporation of Surgeons into a Royal College, and any of the rights, privileges, &c. now vested in the Corporation, had been, from neglect on their parts, omitted in the Bill for erecting such a College, that the Governors would have been highly censurable for such omission, and would have been liable to severe reprimands for not preserving all the rights, privileges, &c. that had been committed to their care and protection ; for they are, for the time being, the guardians of the Corporation ; and to relinquish or desert any of its rights would be a scandalous breach

breach of the important trust confided in them.

Corporate bodies possess their powers either by Letters Patent or Acts of Parliament. Authority to examine into the abilities of all who should practise Surgery in London, and within seven miles thereof, was originally granted to the Bishop of London, or Dean of St. Paul's, for the time being, by an Act which passed so far back as in the 3d of Henry VIII. which enacts, "That all persons practising Surgery shall be examined by the Bishop or Dean of St. Paul's (with such assistance as the Act impowers them to call in); and every one practising the profession without permission had from them, was liable to be fined (even in those days) 5l." This authority of the Bishop or Dean, and those whom they might call in to their assistance, was transferred to the Surgeons' Company, after it became incorporated with the Barbers of London;

London, by Letters Patent granted by Charles I. and confirmed to the Surgeons' Company when the Corporation of the Barber's and Surgeons was dissolved by the act in the 18th of George II.

On looking into the acts above quoted, it will clearly appear, as stated, that the right of examining persons professing to practise Surgery, and prohibiting them, under certain circumstances, from so doing in London, and seven miles of the city, is founded in Letters Patent and Acts of Parliament, and thereby constituted so essential a privilege of the Company's, that the present Governors could not relinquish being bound by their oaths to maintain the liberties, privileges, &c. of the Corporation.

Among the privileges granted to the Company in common with all corporate bodies, is that of making bye-laws, which, to become valid, must be allowed

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and approved (agreeable to the 19th of Henry VII.) by the Lord Chancellor and two Judges. After the Surgeon's Company had been separated from that of the Barber's, the proper officers of the Corporation formed a code of bye-laws, orders, rules, &c. bearing date April 7th, 1748 : part of the 25th of this code ordains, That "if any person shall practise Surgery at any time hereafter, or hang out any sign professing to practise Surgery, without having been duly examined by the Court of Examiners, and having received the grand diploma, under the seal of the Company, shall forfeit and pay to the use of the Company the sum of five pounds of lawful money for every month he shall so continue to practise without such licence and authority." Here, then, the privilege under discussion stands ordained by a bye-law, approved by the Lord Chancellor Hardwicke, and the Judges Lee and Willes ; which strongly corroborates

corroborates the right before vested in the Company by Letters Patent and Acts of Parliament. I apprehend it was inserted in the code of bye-laws to promote its promulgation ; as it might then be known to members and others who had no opportunity or inclination to consult the different statutes containing regulations for the profession of Surgery.

In the year 1762, the third of his present Majesty's reign, an act passed to enable such officers, mariners, and soldiers, as have been in the land or sea service, or in the marines, to exercise trades, in which it is enacted, " That all
 " such officers, mariners, and soldiers,
 " and also the wives and children of such
 " officers, may set up and exercise such
 " trades as they are apt and able for,
 " in any town or place within the king-
 " doms of Great Britain and Ireland,
 " without any let, suit, or molestation,
 " of any persons or person whatsoever,

“ for or by reason of the using of such
 “ trade,” &c. &c. But as Surgery was
then (as I trust it ever will, as it ought to
 be) considered a *profession*, not a *trade*,
 and the practitioners *gentlemen*, not *trades-*
men, I never can believe we were meant
 to be comprehended in the act, unless,
 in addition to the word trade, had been
 annexed art, science, profession, or fa-
 culty, then the Professors of Surgery,
 and the Members of the Commonality of
 the *Art and Science* of Surgeons of
 London, who had served in his Majesty’s
 army* or navy, would indisputably have
 come under the description in the act.
 Nevertheless, it was strongly doubted by
 many, whether the act did not abrogate

* I would willingly admit (were it in my power) that
 Surgeons who had served regularly their King and Country
 for a given time in the navy or army, to practise their pro-
 fession wherever, from inclination or interest, they might
 choose. But I could not assent to granting the liberty to
 Surgeon’s mates, although many are intitled (were a scrutiny
 to take place) from abilities to every privilege the profession
 ought to enjoy.

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that part of the 25th bye-law I have just quoted.

About the year 1782, the Governors of the Corporation thought proper to make certain additions to, and alterations in, the bye-laws, rules, &c. &c. published in 1748. The last of these is couched in the following expressive terms :

“ Whereas some doubts and questions
 “ have arisen touching the meaning and
 “ operation of that part of the 25th of
 “ the said bye-laws so heretofore made
 “ as aforesaid, which relates to persons
 “ who should hereafter practise Surgery,
 “ or hang out any sign professing to
 “ practise Surgery, without having been
 “ first duly examined by the Court of
 “ Examiners, and having received the
 “ grand diploma under the Seal of the
 “ Company. Now it is hereby ordain-
 “ ed, that if any person shall, at any
 time

“ time hereafter, practise Surgery, or
 “ profess to practise Surgery, or hang
 “ out any sign or other token professing
 “ to practise Surgery, within the cities
 “ of London and Westminster, or either
 “ of them, or within the distance of
 “ seven miles of the said city of London,
 “ without having been duly examined
 “ by the Court of Examiners, and having
 “ received the grand diploma under the
 “ Seal of this Corporation, that then
 “ every such person shall forfeit and pay
 “ to the use of this Corporation the
 “ sum of 5*l.* of lawful money of Great
 “ Britain for each and every month he
 “ shall practise, or profess to practise
 “ Surgery, without such licence and au-
 “ thority.”

This law is approved by Lord *Thurlow*
 (then Chancellor), Lord Mansfield, and
 Lord Loughborough.

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It is clear from the preamble that their Lordships knew questions and doubts had arisen, and it is equally clear, from the absolute, unequivocal, decided terms, in which the law is penned, that the act of the 3d of his present Majesty had not, in their Lordships opinion, abrogated the right enforced by the 25th bye-law. For if their Lordships had thought that right and privilege annulled, they would not have allowed and approved a rule which militated against the statutes of the realm, or sanctioned a bye-law, which by those statutes had been abrogated.

In the year 1784, the 24th of his present Majesty, an act passed for the same purposes as that in 1762, but much more comprehensive, besides laying down additional regulations for settlement of poor, &c. yet the immediate purport of the act is worded exactly as is that in 1762, by which it empowers the parties therein described “ to set up their trades as they
“ are

“ are apt and able for.” The exactness of the expression admits no justification of Lord Thurlow’s deviating from the opinion given in 1782 ; yet his Lordship has palpably contradicted that opinion in his opposition to the Surgeon’s Bill, and in his declaration made in his legislative capacity some months ago, at which time he thought proper to assert that Surgery was a trade, and that the Corporation of Surgeons was a trading company, intending thereby to prove, that Surgeons in the army or navy might exercise their trades without let, suit, or molestation, under authority of the acts of the 3d and 24th of his present Majesty *. If his Lordship’s opinion on this subject were to be correct, it should appear that those laws had abrogated and repealed the Letters Patent and Acts of

* The author understands that it was owing to the exertions of Lord Thurlow on this point, that occasioned the third reading of the Surgeon’s Bill to be put off for three months.

Parliament by the simple expression *trade*, a word his Lordship did not think of such power and force in 1762. However that may be, his Lordship's attempts to place the Surgeons of the navy and army under the protection of the 3d and 24th of his present Majesty, is an absolute contradiction to the bye-laws, which his Lordship solemnly approved in his high legal character of Lord Chancellor of England, that ordains, in the strongest expressions (to which his Lordship has subscribed), that none shall exercise the art of Surgery, unless permitted so to do (within prescribed limits) by the Court of Examiners.

It might be argued, *if Surgery were a trade*, that the liberty to carry it on is confined, by the expressions of the act, "to those who are apt and able:" but how are the public to know who "are apt and able" to practise Surgery, unless the examination into pretender's

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abilities

abilities are made by Surgeons, who alone are competent judges? The Act has made no provision for the distinction it points out; but had it been the intention of the Legislature to include Surgeons in that Act, regulations would have been framed to ensure to the public, that none of the profession of Surgery should have been suffered to practise that valuable and important branch of the Art of Healing, without being duly qualified.

If the privileges granted to tradesmen under the acts of the 3d and 24th of his present Majesty, are to effect an abrogation of the right exercised and claimed by the Court of Examiners, from the power vested in them by the Statutes of the 14th and 15th of Henry VIII. and 18th of George II. it will be a very unwise and impolitic abrogation, inasmuch, as it would suffer the most ignorant, illiterate, profligate character (if his father has served in the army or navy) to set up
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as Surgeon in every city and town (Oxford and Cambridge excepted) in his Majesty's kingdom ; a sufferance that effectually frustrates the care and attention our ancestors, as well as our gracious Sovereign, at different times, has expressed for the Common Weal.

Before that Physicians and Surgeons became corporate bodies, none of such professions were admitted to exercise their art till their abilities had been examined and approved : this appears by the 3d of Henry VIII. which enacts, “ That no
 “ person within the city of London, nor
 “ within seven miles of the same, take
 “ upon him to exercise and occupy as a
 “ Physician or Surgeon, except he be first
 “ examined and approved*.” But these

* Another clause in this Statute enacts, 'That no one shall practise out of the city and precinct of seven miles *in any diocese of the realm*, unless approved by the Bishop of the diocese, or in his absence his Vicar General, calling to their assistance such persons in the said *faculties* (not trades), as their discretion shall think convenient.

wife precautions for the public service, like others before noticed, are rendered invalid, if we are to rely on Lord Thurlow's inconsistent assertion, implying, that Surgeons in the army or navy may claim the privileges granted to tradesmen ; consequently *their wives and children*, without let, hindrance, or molestation, may become practitioners of Surgery, as the Act designed to prevent such practices emphatically expresses : “ To the infamy of
 “ the faculty, and grievous, hurt, damage, and destruction of many of the
 “ King's Liege subjects, most especially
 “ of them that cannot discern the cunning from the uncunning.”

To assist in preventing such evils I have published the facts, recited in the preceding pages, in hopes that they may be more generally known than I apprehend they are, addressing them to the Surgeons of Great-Britain, because they are Gentlemen deeply interested in whatever concerns

cerns the honour of their profession, and whose patriotism and humanity will urge them, on all occasions that may offer, to rescue the noble art of Surgery from its impending disgrace, and mankind from the ravages of ignorance and quackery.

A MEMBER OF THE CORPORATION
OF SURGEONS IN LONDON.

Just as these sheets were going to the Press, the Author understands that Reflections on the Surgeons' Bill is about publishing, he thinks proper to say, that he is perfectly a stranger to the contents of the intended Publication, and does not, at present, know the Writer.

Aug. 25, 1797.

cerns the honor of their profession, and
whole patriotism and humanity will urge
them, on all occasions, to be true, to
show the highest respect to the
impending of peace, and to stand firm
the ranks of a nation and people.

A MEMORIAL OF THE CORPORATION
OF DUNDEE IN LONDON.

Just as these sheets were going to the
press, the Author understands that the
Sections on the Surgeons' Bill is about
publishing, he thinks it is to be, that
he is perfectly a stranger to the contents
of the intended publication, and does not
pretend to know the Writer.

Wm. Smith.