

A letter to the Right Hon. Lloyd Lord Kenyon : Relative to some conduct of the College of Physicians of London, posterior to the decision of the Court of King's Bench in the case of Dr. Stanger; and containing observations on a principal ground of that decision / by William Charles Wells.

Contributors

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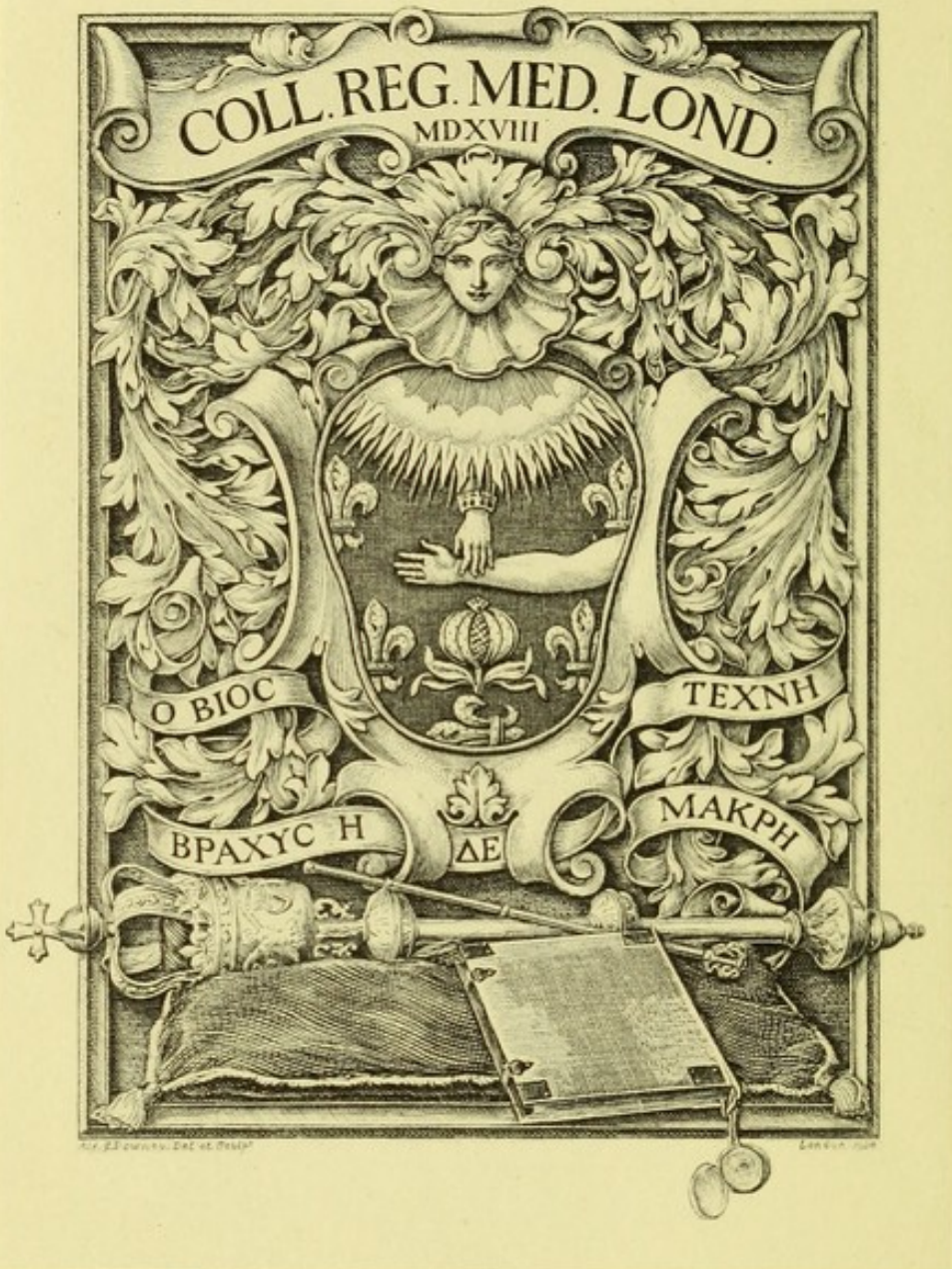
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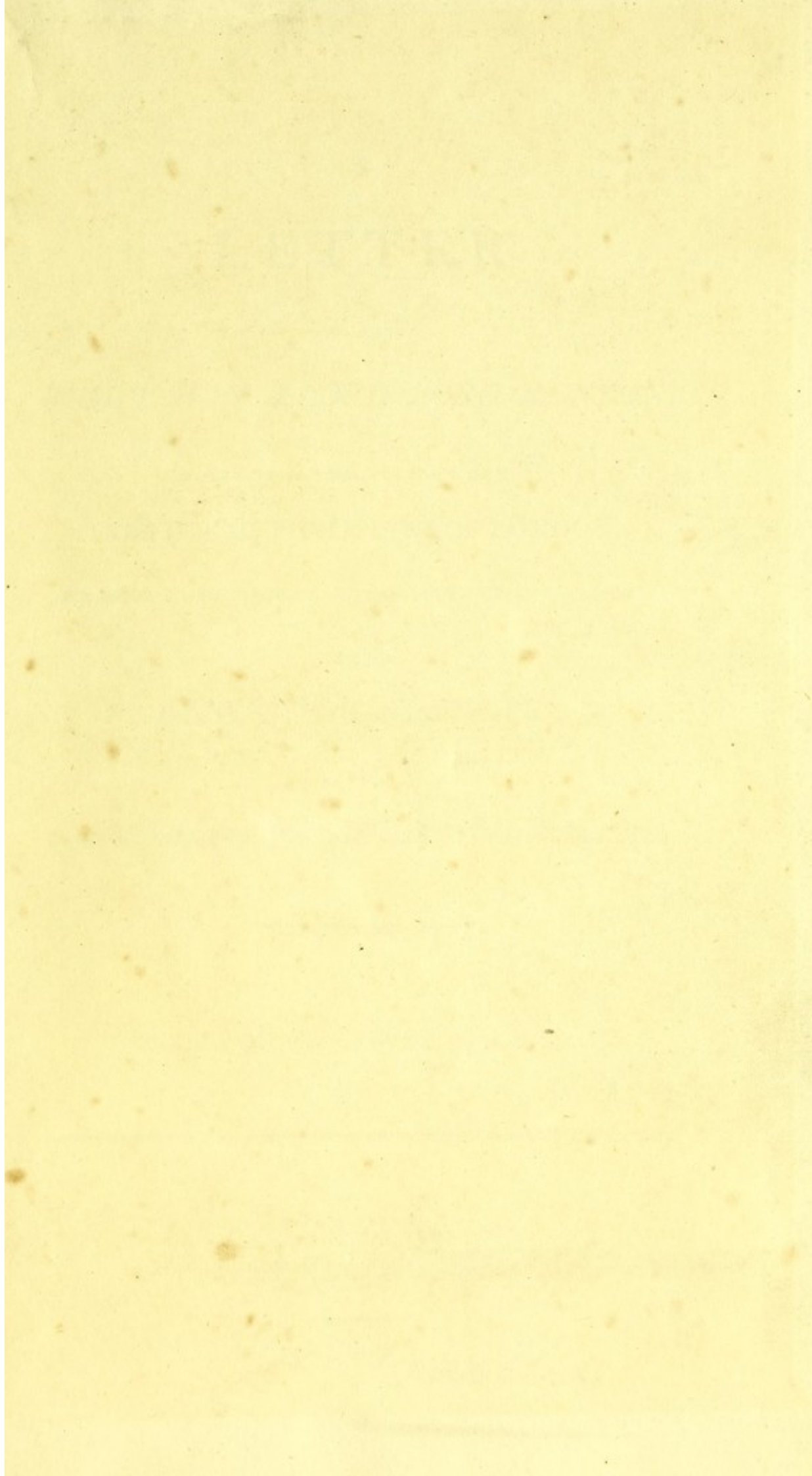


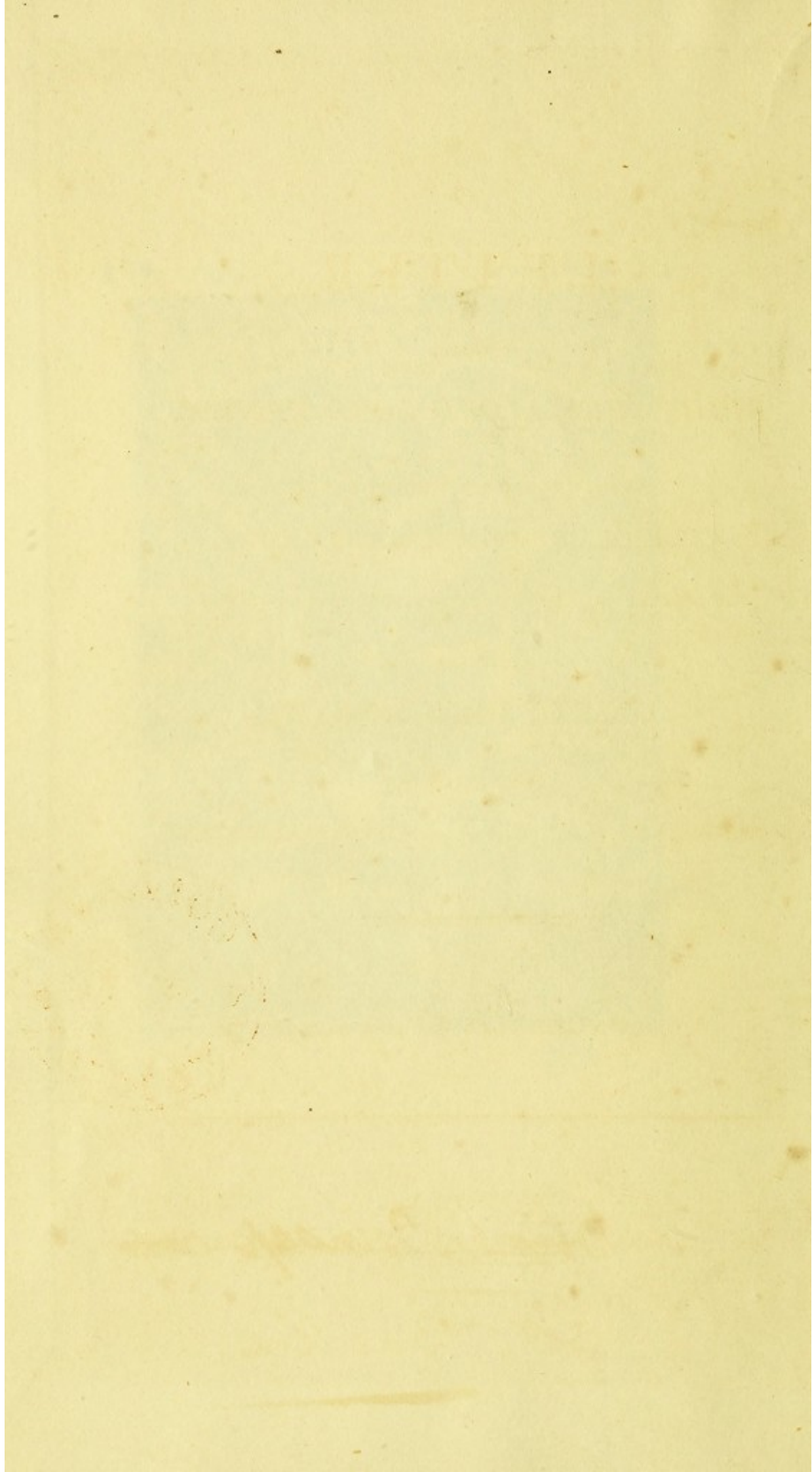
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A

LETTER

TO THE

RIGHT HON. LLOYD LORD KENYON,

RELATIVE TO SOME CONDUCT OF THE

COLLEGE OF PHYSICIANS OF LONDON,

POSTERIOR TO THE DECISION OF THE COURT OF KING'S BENCH

IN THE

CASE OF DR. STANGER;

AND CONTAINING

OBSERVATIONS ON A PRINCIPAL GROUND OF THAT DECISION.

BY

WILLIAM CHARLES WELLS, M. D. F. R. S.



LONDON.

Printed by ~~W. G. & Co. at the Sign of the Sun, in Strand~~

Dr. Baillie
1799

LETTER

RIGHT HON. LORDS OF THE KINGDOM

COUNCIL OF PHYSICIANS OF LONDON

TO THE HON. LORDS OF THE KINGDOM

OF GREAT BRITAIN

CASE OF DR. STANLEY

A TESTIMONY

IN FAVOR OF A FAVORABLE OPINION OF THAT DOCTOR

—————

WILLIAM CHARLES WELLS, M.D.

LONDON

1795



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TO

DAVID HUME, ESQ.

ADVOCATE, PROFESSOR OF SCOTCH LAW IN THE UNIVERSITY OF EDINBURGH, &c.

MY DEAR FRIEND,

WHEN you requested some months ago, that I would proceed no farther in the letter, which I had informed you I was writing to the Chief Justice of the Court of King's Bench, it appeared to me that you had, in a great measure, mistaken its object. I therefore considered myself entitled to continue my undertaking, and have accordingly now brought it to a conclusion. I readily admit, that, in one point of view, I may have been imprudent ;

Ἄφρων δ', ὅσκι' ἐθέλοι πρὸς κρείσσονας ἀντιφερίζειν
Νίχης τε στέρεται, πρὸς τ' αἰσχεσιν ἄλγεα πάσχει.

But I trust that, as far as the more important parts of moral character are concerned, you will find nothing in what I have done unworthy of the friendship between us, which, from its commencement, now nearly thirty years ago, when our boyish fancies gilded every prospect before us, has been ever my pride, and often, in the storms of life, the chief anchor of my hope.

As a piece of composition, my letter will no doubt be deemed faulty by you in many respects. You will perceive, for instance, a considerable want of unity in the execution, should indeed the great rules of criticism be
thought

thought applicable to such a trifle as the present, from the introduction of circumstances, which must seem both trifling and irrevelant, if the rank and character of the person to whom they are communicated be considered. My excuse for part of them is, that, it being one of my intentions to give information to some of my own profession, I conceived it allowable to mention various things for this purpose alone.

I shall anticipate only one other of your observations regarding my letter, and this refers to the lateness of its appearance. I confess myself much ashamed, that almost a twelvemonth has passed away since the occurrence of the event, which especially gave rise to it. But accidents, which would appear ridiculous in narration, whatever their effects may have been, often interrupted my labour, and indolence often pleaded, for a time, irresistibly against the performance of an ungrateful task, which duty had imposed. The delay, however, has necessarily tended to diminish the probability of there being many considerable errors in what I have advanced.

Forgive me for employing this mode of conveying my sentiments to you, and accept my warmest wishes for your welfare. I remain,

Your most affectionate friend,

WILLIAM CHARLES WELLS.

LONDON,
September 1, 1799.

LETTER

TO THE

RIGHT HON. LLOYD LORD KENYON,

&c.

La fede unqua non deve esser corrotta,
O data a un solo, o dato insieme a mille ;
E così in una selva, in una grotta,
Lontan dalle cittadi, et dalle ville ;
Come dinanzi a tribunali, in frotta
Di testimon, di scritti, e di postille ;
Senza giurare, o segno altro piu expresso,
Basti una volta, che s'abbia promesso.

MY LORD,

IF confidence can be placed in the accuracy of the well-known writer of short-hand, Mr. Gurney, the decision of your Lordship, and the other Judges of the Court of King's Bench, in the case of Dr. Stanger, rested principally upon this ground—that he might readily obtain by a direct application to the College of Physicians, what he then prayed the court to enjoin that body to grant.—Every person, your Lordship said, has already a right to address himself to the honourable feelings of those breasts, to which Dr. Stanger must at last address himself, if the mandamus were issued. The same sentiment was immediately after expressed by you a second time ; “ if any one proposes him ”—I venture to

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repeat

repeat your Lordship's words—" the question is
 " submitted to a majority. It goes then to that
 " tribunal, which, I hope and believe, is *the sanc-*
 " *tuary of honour and good faith*, and he may as
 " well address himself to them now, as if this
 " mandamus went." I am, my Lord, one of
 those persons, whom you thus declared to have
 a right to address themselves to the honourable
 feelings of the College of Physicians of London.
 I have exercised that right.—I have applied to
the sanctuary of honour and good faith, for a com-
 pletion of those assurances, which your Lordship
 regarded so deeply imbedded in truth, that you
 erected upon them a decision, which was to af-
 fect the reputation and fortunes of many of your
 fellow-subjects, of no mean rank in society, and
 from which there could be no appeal. Of the
 success of this application I now think it my
 duty to inform you, as it originated in your
 counsel. The counsel was given in open court ;
 the narration of its consequences ought, there-
 fore, in my opinion, to be made with equal no-
 toriety, if my feebleness would permit ; and this
 consideration will, I hope, induce your Lordship
 to pardon the unusual liberty which I take in
 addressing you thus publickly.

But it seems to me proper, before entering
 upon this narration, that I should speak at greater
 length of the case of Dr. Stanger. Your Lord-
 ship's

ship's attention must have been so much occupied by the many important affairs, in which you have been engaged since its occurrence, that the traces left in your memory by some of its circumstances, the knowledge of which is necessary to the right understanding of what I have to say respecting myself, are now perhaps nearly, if not altogether effaced.

On the 26th of January, 1796, Dr. Christopher Stanger, a physician of eminence in this metropolis, made oath in the Court of King's Bench, that he had shortly before applied to the College of Physicians, to be examined for admission into their order of candidates; and that this examination had been refused to him in consequence of a bye-law, which he conceived contrary to the intention of the charter and acts of Parliament, by which their corporation had been established. The next day, a rule was granted by the court for the college to shew cause, why a mandamus should not issue to compel them to examine that gentleman. In the beginning of the following April, Sir George Baker, president of the college, and Mr. Roberts, their attorney, made each of them an affidavit, to justify the refusal to admit Dr. Stanger to the examination he required. In these affidavits it was stated, that the college, in pursuance of a power granted by their charter, had from time to time pre-

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scribed certain qualifications and conditions, as requisite for the admission of persons into the commonalty, ^{or fellowship} and into the order of candidates; that, by one of their statutes then in force, no person could be admitted into that order, unless he were a doctor in Medicine of Oxford or Cambridge; that Dr. Stanger was not a graduate of either of those Universities; and that there were two bye-laws of the college, by which licentiates of certain descriptions might be received into the fellowship, without their previously entering into the order of candidates. Such were the general grounds on which the refusal of the college to examine Dr. Stanger was to be defended. It was, however, clearly seen from Sir George Baker's affidavit, that if the reasons hitherto alleged should be found insufficient, an attempt would be made to shew, that the applicant was unworthy of reception into any society, from having violated the faith which, it was said, he had solemnly pledged to the college, upon being admitted a licentiate.

The bye-law, which restricted admission into the order of candidates to the graduates of Oxford and Cambridge, had been decided by Lord Mansfield to be bad; and according to the confession of the counsel of the college, the two bye-laws, which allowed licentiates to enter the fellowship, had been framed in consequence of
the

the censure passed by that judge upon the former system of admission, and of his recommendation that a more liberal one should be adopted. Their real defence, therefore, as having regard to the possible applications of persons in whom they could not pretend to find the smallest appearance of blame, rested entirely upon the two last-mentioned bye-laws.

These bye-laws were recited at length in the affidavit of Mr. Roberts. By one of them, the president was allowed once in two years, but not oftener, to propose a licentiate of ten years standing, to be admitted into the college *without* examination of his fitness. If he chose, however, to omit the exercise of this privilege, as the present president has repeatedly done, it was not to devolve upon any other person. But when Lord Mansfield condemned the whole of the former system of admission, there existed a much more liberal statute for the reception of licentiates, through *favour*; for according to it *every* licentiate of *three* years standing, who had taken the degree of doctor in medicine, after studying four years in *any* university, might in this way be admitted a member of the college: one at least, therefore, of the new bye-laws, certainly afforded no corrective to the evil, of which that great man complained.

The remaining bye-law was consequently the only source, from which such a corrective could be expected. It declared, that licentiates of seven years standing, and who had completed the thirty-sixth year of their age, might be admitted into the fellowship of the college, should they be found fit *upon examination*. I shall not trouble your Lordship, at this time, with any observations upon the numerous fetters, by which the action of the pretended principle of this bye-law was impeded. I have at present nothing in view but to shew, that this was the only measure of any importance the college had adopted for the purpose of removing the reproach, which had been thrown upon them by Lord Mansfield; and that it therefore afforded the only good ground for their resisting the issue of the mandamus which Dr. Stanger solicited.

Accordingly, when the question of the mandamus came to be argued before the Court of King's Bench, on the 23d of April, 1796, Mr. Erskine, the leading counsel of the college, was found to derive from this bye-law his chief reasons against the proceeding of that writ. It can scarcely be thought, that so ingenious and eloquent an advocate would confine the defence of his clients to any single point. It was not surprising, therefore, that he should make a
shew

shew of resistance at various parts. But still it was evident, that this bye-law was regarded by him as his only secure position. How could he indeed act otherwise, consistently with the deference which was due to the opinion of Lord Mansfield? Dr. Stanger had applied for a mandamus to the Court of King's Bench, because the College of Physicians refused to examine him for admission into their order of candidates. But the bye-law, in which they grounded this refusal, had been decided to be bad by the late chief judge of that court. No other defence then could well be offered there for such conduct, than that, in compliance with the advice with which his censure was accompanied, a new bye-law for the admission of members had been framed, which so qualified the former, as to take away from it all appearance of illiberality; and that if Dr. Stanger chose to apply under the new statute, he would readily be received into the college.

This appears to me a just summary of the chief, if not the only argument, of Mr. Erskine upon that occasion. But to avoid all suspicion of error, I shall now take the liberty of shewing in what manner Mr. Erskine represented his own argument, and what assistance he expected to gain from it, in his attempt to prevent the issue of the mandamus. I shall at least prove by this procedure,

procedure, that I can have no intention to deceive.

*EXTRACTS * from Mr. Erskine's Speech in the Court of King's Bench, April 23, 1796, in the case of Dr. Stanger, against the College of Physicians.*

“ SUBSEQUENTLY to the time when Dr. Fothergill's case was before the court, there was a revision of the statutes of this learned body, who took the very best and the most eminent advice which this kingdom could furnish them.”

“ They made two bye-laws—in which there is a power given for any fellow at the ordinary comitia majora, after Michaelmas, to propose a licentiate of seven years standing, who is thirty-six years of age, for examination, who, if approved of by the majority of the fellows then present, is to be examined at the three next comitias, and then, if approved, to be admitted a candidate, though he has not studied at either of the English universities.

“ Your Lordship will observe, that Dr. Stanger could not have this mandamus under this bye-

* From Mr. Gurney's Report, taken in short-hand.

law, and therefore I admit I must support the bye-law Sir George Baker sets forth in his affidavit, because no person, except he be of one university or the other, can possibly be examined, but upon the proposition of one of the fellows that he should be examined; and upon the proposition of one of the fellows, if he be a licentiate of seven years standing, and thirty-six years of age, *though he has not that qualification which is required in the bye-law set forth in Sir George Baker's affidavit, yet this door is open to him.* And can it be supposed, or will any gentleman stand up and say it is consistent with probability, that a man of eminent learning and high qualifications, who, notwithstanding he has not had that species of education, which I will shew from the time of the charter to this day has been constantly adopted; yet, if he be a person who has undoubtedly qualifications for it, is it to be supposed that there is not one fellow of the whole college who would propose such a person?"

“ In the bye-law which I have just stated, any one fellow may propose the examination of an individual, though such individual could not, according to the ordinary bye-laws of the college, be admitted to examination. But to leave the door open, and to prevent the observations that

were made in the case of Dr. Fothergill, and under the auspices of the most learned men of the profession, this bye-law was made; therefore, I think, I have gone the length of shewing, that the present bye-laws can be attended with no possible inconvenience.”

“ I will only ask my friends, by-and-bye, to explain to your Lordship, how it is consistent with reason or common sense, to say, that the public can suffer, or this learned profession be affected in its dignity or advantages, if no person should have an opportunity to force himself into their college, unless he comes within the scope of their bye-laws, sanctioned from all antiquity, and comes within the sense of these bye-laws; although no door is shut against them at all, but any one fellow of the college may, notwithstanding that statute, propose them for examination, &c. It is not easy to conceive, that a man can be entitled to so much favour, because of his eminent qualifications, as that he can supersede all the rules and provisions of the country, and yet shall not be able to find one person within the walls of a college, consisting of near a hundred members, to propose him, although such a man would add dignity and lustre to the college.”

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“ Will any man say that these things are attended with any inconvenience to the public? They are not at all; for, in the first place, if the gentleman who proposes himself to examination has studied at either of the English universities, then this does not apply; if he has not studied at either of the universities, and can find one fellow in the college who knows any thing of him, and thinks him a fit person to be proposed, then this bye-law does not stand in his way.”

Such, my Lord, was the use which Mr. Erskine made of this bye-law, in resisting the issuing of the mandamus. The pleadings ceased almost immediately after he had finished his speech, and the rule was discharged, in consequence of an error which was discovered in the mode of Dr. Stanger's application to the college. While it was in doubt, however, whether this error was of sufficient importance to put a stop to the proceedings, some conversation took place between the judges and Dr. Stanger's counsel, an exact relation of a part of which will demonstrate more strongly than I can possibly do, that the court uniformly regarded the conditions, which were required by the bye-law for admitting licentiates into the college, merely as

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cautionary

cautionary measures against the entrance of improper persons into their body; and constantly supposed, that if any licentiate of good character, and possessing the qualifications marked by the statute, could prevail upon a fellow to propose him, no obstacle would afterwards exist to his admission. How far these opinions were well founded, will hereafter appear to your Lordship.

Extract from Mr. Gurney's Report.

Mr. *Justice Lawrence*. "Where is the difficulty of a gentleman's getting some one fellow of the college to propose him?"

Mr. *Law*. "There has been no person admitted—there have been many trials, but nobody has ever got through that wicket, nor ever will."

Mr. *Justice Lawrence*. "Do you imagine, if they think Dr. Stanger, or any other physician, is a fit person, that they will not propose him?"

Lord *Keuyon*. "There is a wicket of that kind put in our own profession—for, as I understand, all the four inns of court have for some time insisted, that one of their body shall propose a gentleman to be called to the bar, and that precaution has been attended with extremely good consequences.

quences. I am sorry, from what one hears, that it has not been quite a sufficient guard now and then, through a little inadvertence or misinformation; but certainly it is attended with good consequences."

Mr. *Law*. "That is a delegation of the power of enquiry to one whose special business it is, and I believe every gentleman upon whom that delegation falls, discharges his duty properly, and makes that enquiry."

Mr. *Justice Grose*. "But why should not this supposed duty be as honourably and as well executed by them, as in our profession*?"

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* Students of law, as the author is informed, are admitted to the bar by the benchers of the inns of courts, who, for the following reasons, may be supposed to execute their trust with fairness and impartiality. 1. As they are few in number, each of them must feel himself responsible for the acts of the whole. 2. They are either of advanced age, and little connected with the practice of their profession, or of considerable rank in it. None of them, therefore, can well be jealous of any person who may apply for admission. 3. The applicants for admission are, for the most part, very young men, who for this reason cannot have exhibited such talents as are likely to excite jealousy in persons much their seniors, were these even liable to be affected with that passion. 4. The profession of law includes so many individuals, that the accession of one more to it can scarcely excite fear in any former member, that his profits may hence be diminished. 5. Since none are allowed to practice

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The mode of Dr. Stanger's first application to the college having been determined to be wrong, in the June following he presented himself a second

tise as advocates before admission at an inn of court, an applicant cannot, in the previous exercise of his profession, have given umbrage to any of those who are to decide upon his fitness. 6. So many gentlemen of great figure and independent fortune embrace the profession of law, either with the view of preparing themselves for the discharge of various duties incident to their rank in society, or in the expectation of obtaining some high office in the state, that it is natural to infer that great liberality exists in its government. Stronger reasons may no doubt be given by persons better acquainted with the subject, but these seem to the author sufficient to explain the fact, that every person, who possesses the prescribed qualifications, is morally certain, upon application to any of the inns of court, of being admitted to the bar.

Similar reasons cannot be given, why fairness and impartiality should be found in the decisions of the College of Physicians, upon the applications of licentiates for admission into their body. For, 1. Not a few of the fellows, but all of them indiscriminately, determine the fate of every such application. 2. The greater part of the voters are consequently not of such a rank in their profession as to be above the reach of jealousy. The proportion of such persons at the meetings of the college is further increased by their having little to do elsewhere. 3. As the seven years of the applicant's licentiate-ship will, in all probability, have been spent in the metropolis, it is surely not unlikely, that some of the voters may have become jealous of his talents or success. 4. The members of the college are very few in number when compared with the barristers belonging to all the different inns of court. In the list for 1798, there are only twenty-seven fellows who exercise their profession in London, and some of these are very aged, and take little concern in practice. Any advantage, therefore, to be derived by a licentiate from being admitted into the college,

second time to them, requesting permission to undergo any examination which might ascertain his fitness to be a *fellow* of their body. An examination was again refused. Dr. Stanger having made oath of this, a new rule was obtained on the 26th of November, from the Court of King's Bench, for the college to shew cause why a mandamus should not issue against them. On the 23d of January, 1797, Dr. Gisborne, then president of the college, made an affidavit in answer to Dr. Stanger's, the purport of which was the same as that of the affidavits of Sir George Baker and Mr. Roberts, in the former cause. In the new trial which followed on the 11th of May, 1797, the leading counsel of the college, as in the preceding one, was Mr. Erskine, who

lege, will probably be regarded by some of the former members as tending to diminish, or prevent the increase of their own emoluments. 5. In the course of seven years passed in the exercise of a profession, in which, above all others, misunderstandings are apt to arise among its different members, it is almost impossible that a licentiate should not have given umbrage to some of those who are to decide upon his application. 6. Physicians in this country are almost universally taken from the middle ranks of men. They cannot therefore be expected to conduct themselves, as a body, in the same liberal manner as the members of a profession, which contains a considerable number of persons of high birth and large hereditary fortunes. Other circumstances, tending in like manner to produce unfair and partial decisions in the College of Physicians, when licentiates apply to them to be examined, will be mentioned hereafter.

quickly

quickly abandoning all weak points, again fixed upon the bye-law for the admission of licentiates, after an examination of their fitness, as the only ground which was fit to bear his works of defence. To prove that I am here also justifiable in attributing such conduct to him, I proceed to insert several passages from his speech upon this second occasion.

EXTRACTS from Mr. Erskine's Speech in the Court of King's Bench, May 11, 1797, in the Case of Dr. Stanger against the College of Physicians.

“ Your Lordship will take it that this last statute which I have read, [that restricting admission into the order of candidates to graduates of Oxford and Cambridge] and which still is in existence, and which is qualified by others I am about to state, was the last in existence at the time when the cases of the King v. Dr. Afkew and Dr. Fothergill, and those other cases came before the Court of King's Bench, as reported in Sir James Burrow. Since that time your Lordship will find that other bye-laws have been introduced, greatly qualifying those previous bye-laws, and as I have been given to understand, framed under the advice, and with the assistance of some of the most eminent and learned persons

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in this kingdom, in the profession of the law.”

[Mr. Erskine then recited the bye-law, by which licentiates might enter the college upon being examined in regard to their fitness, and afterwards proceeded thus:] “Your Lordship observes then, that by the last bye-law which I have just now stated, though a man had never seen either of the universities, yet if he can find out of the whole college of physicians, any one person who is a fellow of the college, to usher him in for an examination, he is, notwithstanding the other statute, of which this statute, your Lordship observes, is a great qualification, entitled to undergo the ceremonies which the college has thought fit to prescribe; and which I will shew your Lordship, by and by, it has, and it cannot be denied that it has, a right to prescribe for its own government; he may be admitted.”

“THEN what are we assembled here upon? Why upon this grave and notable question—whether the bye-laws which I have read to your Lordship, taken altogether as one body; *those that are subsequent qualifying, restraining, and modifying those that are antecedent*; whether all these taken together constitute a reasonable body of bye-laws, within the meaning of the charter, granted by the king, and con-

firmed by an act of the legislature. Or, whether these bye-laws shut out any persons who had a right by some privilege inherent in them as British subjects, under this charter, and this act of parliament, from becoming members of this grave and learned body.”

“ WOULD a mandamus go to the Bishop of London if he refused ordination to a person who set forth his learning, but had not been at either of the universities, and was therefore rejected? But have the college of physicians done that? No; they have done no more than this—if you have been at the university, and have acquired a degree and testimonials, without dispensation, we presume that you are learned from the place from whence you came, and the discipline you have been engaged in, and we examine you at once; but if you have not, *do we reject you? No; but we require that you should be introduced for examination by some one of the fellows of the college, and then we will examine you.* Is it consistent with common sense to say, that there is any thing unreasonable in that?”

“ YOUR Lordships have the same authority, assembled in your judicial capacity, as judges over
our

our voluntary societies, as you have over a college by mandamus. I apprehend, if a person were to apply to your Lordships, and say, I have been rejected at Lincoln's Inn; why? because I could find nobody who would give in my name to the benchers to be called to the bar; you would reject such petition with indignation. You would say, that those learned bodies, who have a jurisdiction exactly similar, only that it is directed and referred to a different profession, in the regulation, and in the learning and integrity of the members of which, the public have a similar interest, inasmuch as they exercise a profession very important in every view of it; your Lordships would say, that he ought not to be admitted, who could not find one person to propose him as fit to be examined; (*and that is all that we are contending for*) because if a man can find any one fellow of the college to propose him, he may be admitted, provided they think him fit."

"Now I will consent to the learned Serjeant making this rule absolute, if he can prove that this bye-law is unreasonable; for we are here upon the reasonableness of the bye-law. I read that part of the charter which gives them authority to make bye-laws, and I defy the wit or imagination of man to put another question upon

the court here, than—Whether this class of byelaws, *taken altogether*, be unreasonable. I consent to the rule being made absolute, if any one of my friends, or all of them together, can, in their imagination; I do not appeal to any experience they can bring; but if they can in their imaginations, however fertile they may be, figure to themselves an inconvenience that may arise from them. They may say, Oh, there may be a conspiracy which may exclude a virtuous and enlightened man! Setting aside the main improbability, that *members of a learned body could league themselves in a conspiracy so base and so scandalous, as to refuse to examine a man proposed to them by one of their own order, under their own laws, from a professional jealousy, lest they should be eclipsed by that person; &c.*”

“ And yet what is the argument, that, when bowing to the great learning and ability of Lord Mansfield upon that occasion, when the college having no other end and object in the world; and what other end and object can they have, than the regulation of a profession, which I will say—and let Dr. Stanger take part of the honour if he pleases—is a profession which not only preserves the health of our relations and friends, and gives greater security to human life, but
which,

which, I say, also gives us a class of men who are an ornament to society and to this country, with a knowledge of the languages and the various branches of philosophy, which gives that insight into nature and its works which are acquired in the learned institutions, which now are to be broken down, and all sort of persons are to be suffered to do—What? Not to practise physic, for they practise it already, but they are to be let in for the purpose of governing one of the wisest and the most learned bodies; of governing men who, one and all of them, almost, are deeply skilled in every thing that learning and science have brought forth in any age; and yet, forsooth, it is to be considered, as if the charter and acts of parliament were likely to suffer, *because a man has kept his learning so much to himself, that nobody could ever find it out, so as to be able to think it was wise or decent to propose him; or else, that he is such a phenomenon in human shape, that there must be a conspiracy among them to keep him out, lest he should eclipse them all.* I am sure Dr. Stanger does not wish to represent himself as such a person; *but I am certain that if Dr. Stanger would have applied to the college, as men of the first learning in every age have applied to it, he would have been admitted.*”

These were the arguments, which the bye-law for admitting licentiates to examination furnished to Mr. Erskine, against the issuing of the mandamus, upon Dr. Stanger's second application. That they were the only arguments, upon which he placed the least dependance in preventing that writ from going forth, is demonstrated by the concluding sentence of his speech, in which he collects to a single point the scattered tendencies of all that he had before advanced. "My proposition is," said Mr. Erskine, "that it is reasonable the college should say; if you are of the universities we will examine you at once; *if not of the universities, we do not refuse to examine you*, but we consider it reasonable to point out the mode in which that examination should go forward; otherwise we must examine all the world: and we conceive that the regulation which we have imposed, in order to prevent frivolous examinations, is not inconsistent with the reasonable exercise of discretion; and which, therefore, is warranted by the charter, which entitles us to make these statutes."

Having already occupied so much of your Lordship's time in citing passages from Mr. Erskine's speeches in the case of Dr. Stanger, I feel averse to give extracts from those of the remaining counsel of the college upon the same occasion.

occasion. I shall, therefore, only recal to your Lordship's recollection, that two of them, Mr. Gibbs and Mr. Dampier, made use of the same bye-law to convince the court, that the mandamus ought not to proceed.

I know not, my Lord, exactly in what light the declarations of counsel in a court of law are to be regarded, or how far they may be thought binding upon the persons in whose behalf they are made; but if they are ever held to impose an obligation upon a client, and without admitting that they do, it is difficult to conceive how the business of a court of judicature can be carried on, those in Dr. Stanger's case ought to have produced this effect. The principal advocate of a body, termed by your Lordship, the sanctuary of honour and good faith, declares to the Court of King's Bench, that his clients are willing to examine Dr. Stanger, or any other person of the same description, should application be made to them under a particular bye-law which he recites. This pledge, for so I must call Mr. Erskine's declaration, was given in April, 1796. The same cause was tried a second time in May, 1797. If, therefore, Mr. Erskine had gone beyond his instructions in giving that pledge, sufficient time had surely intervened, to have allowed the college to make the discovery, and to warn him against committing the same error a second time.

time. Did this happen? His subsequent conduct proves that it did not; for in his second speech he repeats the pledge, in language still stronger than that which was formerly employed by him. But it may be said, that inveterate obstinacy, or unconquerable ignorance on the part of Mr. Erskine, might occasion the repetition. Some of a committee of the college appointed to conduct the law-suit hear Mr. Erskine's second speech. Do they then caution the remaining counsel to avoid the rock, which had twice endangered the safety of the vessel committed to his care? We can here also only judge from the event. The two who speak next, vouch, like Mr. Erskine, for the willingness of the college to examine Dr. Stanger, or any other person of similar qualifications, for admission into their body.

But it seems superfluous to offer proof, that the college were bound by the repeated and unchecked declarations of their counsel, to a prompt and honourable execution of the statute for the admission of licentiates to examination, when it is considered in what light that statute was regarded by the court. For in delivering your opinion on Dr. Stanger's case, your Lordship, after speaking of the bye-law which had formerly restricted admission into the college to the graduates of Oxford and Cambridge, was pleased to express yourself in the following manner:

“ If

“ If it, [the restrictive statute] had been a *fine qua non*, if it had controlled the parties who are to form their judgment, and taken from them all power of decision upon candidates, it would have had that seed of death in it, which *Lord Mansfield found in that bye-law* which he decided to be bad*. But this is not so; here every person has *a right to address himself to the honourable feelings of those breasts, to which Dr. Stanger must at last have addressed himself, if this mandamus went*. If they find him to be, (as I am inclined to believe he is from what I hear of him) possessed of all the requisites of medical learning and moral character, he will address as powerful arguments to those gentlemen, *every individual of whom is called upon to exercise his opinion upon the subject*. He is not to wait to be seconded; the bye-law does not require that; if any one proposes him the question is submitted to a majority. It goes then to that tribunal, which, I hope and believe, is the *sanctuary of honour and good faith, and he may as well address himself to them now as if this mandamus went*; they are not

* The only difference between the present restrictive statute, and that which was in existence in the time of Lord Mansfield, is, that foreigners, who have taken degrees at Oxford or Cambridge, are not now prevented from entering the college: but it is evident that this relaxation can affect very few persons, perhaps not more than one in a century.

bound to admit, all they are *bound to do is to examine.*"

One of your brethren on the Bench, Mr. Justice Grose, refused the mandamus on the same ground as your Lordship. Another, Mr. Justice Lawrence, had several times, in the course of the two trials, declared his confidence in the readiness of the college to admit any licentiate, in the situation of Dr. Stanger, to an examination, and for this reason probably thought it unnecessary to repeat the same opinion, when he gave his reasons for refusing the mandamus. The remaining judge, Sir William Ashurst, was the only one who did not, at some period or other of Dr. Stanger's applications to the court, approve of the bye-law for the admission of licentiates into the college upon examination, and express his belief that it would be carried into execution, whenever an application should be made in consequence of it. What he said, however, at the close of the trial, afforded no reason to suppose, that he entertained sentiments on these subjects, different from those of his brethren.

I have now, my Lord, finished the relation of those parts of Dr. Stanger's case, which seem to me to form a proper introduction to what I shall say

say concerning myself. I may have been tiresome by minuteness of detail; but if I have been at the same time accurate, as I believe I have, I trust that I shall readily receive your Lordship's forgiveness; more especially when it is considered with what view that statement has been given. It is to point out, in a manner not to be questioned, what conduct the college were bound to pursue upon the application of a licentiate for examination, before I describe the conduct which they actually did pursue, when such an application was made. It is to exhibit a picture from the masterly hand of your Lordship, guided rather by the suggestions of a warm and virtuous fancy, than by an accurate knowledge of the object to be represented, before I produce another picture of the same object copied from nature, by an artist, rude indeed and unskilful, but whose diligence and fidelity may have compensated his want of genius and taste.

Before the decision of the Court of King's Bench, in the case of Dr. Stanger, I had with many others believed, that the fellows of the college never meant to admit any licentiate to an examination. But when I had become acquainted with the declarations of their counsel, respecting the bye-law for examining licentiates, and with your Lordship's opinion, that it fur-

nished a remedy for the evil in the former system of admission, equal to that which even a mandamus could afford, I concluded with some firmness, that although my belief had been originally well founded, still they would scarcely be hardy enough to refuse to examine a licentiate, while the circumstances of Dr. Stanger's cause were recent in the memory of every one. Not having been, in court myself during the trial of that cause, my first knowledge of the proceedings in it was derived from verbal reports. Fearing, however, that these might be incorrect, I thought it prudent not to form any plan in consequence of what had passed there, before I should see an account of the proceedings, which Mr. Gurney was then preparing from his notes in short-hand. When I had perused that account which from various circumstances I did not receive until several months after the trial, I hastened to enquire, whether any licentiate, who came within the conditions of the bye-law, meant to avail himself of it: but, finding that there was none, I determined to apply for an examination of my own fitness to be a fellow of the college, whatever reason I might have for being fearful of its issue, rather than allow the grounds of the decision to run any hazard of being forgotten, from want of an early appeal to them. I mentioned this intention to two of my
 friends

friends among the fellows, Dr. David Pitcairn, and Dr. Matthew Baillie, who, by immediately offering to propose me, removed the first, and in the opinion of the judges of the Court of King's Bench, the only difficulty in the way of obtaining my object. On the 29th of September, 1797, a motion was accordingly made at the college by Dr. Pitcairn, and seconded by Dr. Baillie, not that I should be admitted a fellow, but merely that I should be examined concerning my fitness to become one hereafter. If your Lordship's surprize would have been excited, as surely it must, by any opposition whatever to this proposal, to what height will it be carried, when you learn the ground of that which was actually made? Could your Lordship have even imagined, that a bye-law of the college of Physicians, which, by the declaration of their counsel in the Court of King's Bench, had been framed in 1778, with the best legal advice this country could afford, for the express purpose of removing the blame which had been thrown upon them by Lord Mansfield; that a bye-law, which, if before forgotten, had been recalled to their recollection in 1789, by an application under it from Dr. Sims; that a bye-law, to whose existence they had twice sworn before your Lordship, once in April 1796, and again in January 1797; that a bye-law, upon which they had

rested

rested their chief defence in a recent trial before the Court of King's Bench; that a bye-law, to the beneficial operation of which Dr. Stanger had, in the course of that trial, been advised by one of the judges upon the Bench to trust implicitly, instead of applying to the court for a mandamus; and, lastly, that a bye-law, which your Lordship had expressly said *bound* them to examine every person who applied under it, should in September 1797, be declared a *dormant* bye-law, the propriety of whose revival formed a question of very great concern, and was consequently not to be decided upon before it had undergone much serious consideration? In the midst of your indignation against such conduct in a body of men, formerly styled by your Lordship, *the sanctuary of honour and good faith*, it must yet afford you some consolation to know, that many of the members were free from its guilt; and that when a motion was made to get rid of Dr. Pitcairn's proposal, by what is termed the previous question, out of twenty-three, the whole number at the meeting, ten voted against it.

Few men are so lost to shame, as not to desire that their most iniquitous acts should wear an appearance of justice. It is not, therefore, wonderful, that the college of Physicians should have attempted to palliate the conduct which has been mentioned.

mentioned. With this view they maintained, that proper notice had not been given of the intended proposal by Dr. Pitcairn. But no such notice was either required by the bye-law which authorized that proposal, or had been established by custom. What end indeed would the giving of notice in the case before them have served? Not surely to afford time for their considering, whether they were to receive what they were bound to receive. If it were to have relation to the character of the person to be proposed, all that could be well known of it was already in their possession; since, during the nine years of his being a licentiate, he had never absented himself from London an entire day, and had in the same time associated more with fellows of the college than with licentiates. Besides, the mere admission to an examination did not prevent the free exercise of their judgment at any one of the four other ballots which were to take place, before he could be received into their body; and as the last of those ballots was not to be held till twelve months after the admission to be examined, those of the tenderest consciences were allowed sufficient time for the most scrupulous enquiries respecting him.

But not to dwell longer upon this mode of answer to their pretext, I proceed to assert, that
 notice

notice *was* given to the college of Dr. Pitcairn's intended proposal. If the proper person for receiving it was absent from his duty, the fault lay with him. Among the many illiberal circumstances of the bye-law for admitting licentiates to an examination, is this; that no person can be proposed under it, except upon one day in the year; namely, at the general meeting of the college, immediately after Michaelmas. I had not been able before the 20th of September, to ascertain whether or not I could be proposed in 1797. Two days after this, and seven days before the meeting of the college, I went to the president's house in London, to inform him of what was intended, being desirous that, although such a notification was not required, it should not afterwards be said, that an attempt had been made to surprize the judgment of the college. I was told there that he was in the country, at a considerable distance from London, but that he was expected to return in a day or two. Upon this, I wrote a letter at his house, which I left there, to acquaint him with the object of my visit. Three days after, however, I learned that he was still out of town, and probably would not come to it till the day preceding the meeting of the college. In consequence of this information, I immediately sent a letter to him in the country, to make known what was meant to be done.

done. On the same day I called upon the officer of the college, whose business it is to summon the fellows to their meetings, and authorized him to acquaint those whom he should see, that I was to be proposed for examination. I gave the same information myself to one fellow, my colleague, Dr. George Fordyce. If I did not give it to more, this was from fear, lest the doing so might be regarded as an indirect solicitation of votes. Yet, notwithstanding all this superogatory care to apprise the president and fellows of the college of what was intended by Dr. Pitcairn, they were bold enough to refuse even to allow his proposal to proceed to a ballot, on this pretence, among others, that it had not been properly notified to them.

Amongst the voters against a ballot on the proposal of Dr. Pitcairn, was Dr. John Burges*, whose

* I here, and perhaps shall elsewhere, venture to say, upon which side of a question a particular member of the college has voted, though it be the custom of that body to collect suffrages by ballot. But ballots are so little adapted to the freedom of Englishmen, that they are seldom in this country attended with the concealment, which is probably derived from them among the crafty and dissembling Italians. When votes are collected here, in this way, many of those who give them openly mention the side which they support; others, though they do not make a direct confession, yet by the tenour of their conversation, leave little doubt upon the same point; and by

whose conduct in this matter seems worthy of particular notice, as he had himself only a few years before made a similar motion regarding another licentiate. I dispute not here the claim, which that gentleman makes to antient faith, and purity of manners, and most exemplary zeal for *the honour* of the college: but as an humble enquirer into the principles of human nature, I think myself entitled to say a few words upon his acting so differently at different times, in circumstances apparently the same.

Travellers inform us, that many of the inhabitants of the isthmus, which connects the two great continents of America, labour under a most strange deprivation of sight. When the sun has arisen above the horizon, and has enabled other men by its light to pursue their ordinary occupations, these people become blind, and retire into caverns and dark woods, there to pass the day in quiet and repose. But, as soon as night has descended upon the earth, and the face of nature is to other eyes covered with darkness, their sight is restored, and they then come forth from their hiding-places, to exercise

these means, as little doubt at length remains in regard to the few, who have endeavoured to involve their conduct in mystery. I shall be very ready, however, to correct any mistake which I may fall into upon this subject.

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the labours, and enjoy the pleasures of life. I know not whether a similar infirmity has hitherto been observed in the mental perceptions of man; if it has not, I announce the existence of an undescribed disease, and produce the conduct of Dr. Burges in proof of my discovery. This gentleman, some years ago, saw so clearly the propriety of carrying into execution the bye-law of the college, for admitting licentiates to examination, that he proposed Dr. James Sims, as a candidate under it. To the other fellows, however, the propriety of the measure was then involved in such darkness, that no one of them could be induced to second his motion. In 1797, the arguments of the advocates of the college, and the speech of your lordship, diffused such light over this subject, that when another licentiate is proposed for examination, ten fellows, without the smallest sollicitation from any person, and in direct opposition to the suggestions of antient prejudice, declare their opinion, that it ought to be granted. But the light which now enables men of healthy minds to discern merit in a measure, in which they formerly could see none, overpowers by its excess the infirm perception of Dr. Burges. In this distress, groping in darkness, he begs for time to consider, whether the bye-law for the examination

of licentiates, ought even in *any* instance to be carried into effect.

At the time that I was made acquainted with the fate of Dr. Pitcairn's proposal, I was also told, that since it had not been put to a vote, it could not be said to have been *rejected*, but was rather to be supposed still lying on the table of the college. Hence I concluded, that if a charge were now brought against them of disregard to the decision of your Lordship, they might attempt to evade it by maintaining, that the consideration of Dr. Pitcairn's motion had been only *suspended*. I resolved, therefore, to bring their sincerity to trial afresh, by having myself proposed a second time for examination. Upon mentioning this determination to Dr. Pitcairn, he offered his aid in accomplishing it, by repeating his former motion in September 1798; before which, in consequence of what has already been observed, it could not be received.

During that interval, the college proceeded to impose a new restriction upon the admission of licentiates into their body, as if to demonstrate the truth of the allegation against them, which had been so scornfully repelled by the judges of the Court of King's Bench, that their bye-law
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for the examination of persons of that class was altogether illusory, and had been framed with the intention, that no one should ever be received by it.—The new restriction was, that whoever meant to propose a licentiate for examination, should give notice of this at a preceding quarterly meeting of the college. Its professed object was to allow time to the fellows for enquiry into the character of the person to be proposed. The pledge to be given by a fellow upon proposing a licentiate, the candidate's residence for at least seven years in the midst of them, and the interval of a twelvemonth between the first and last ballots upon his fitness, were consequently declared to be insufficient barriers against the entrance of unworthy persons into the corporation. But it seems to me more difficult to admit that this was in truth their opinion, than to believe, that the real object of the new regulation was very remote from the one exhibited; and what I shall immediately say, will probably incline your Lordship to form a similar conclusion.

In the end of June 1798, Dr. Pitcairn, though much debilitated by a dangerous illness, under which he had lately laboured, attended at the college to give notice, that he should in the following September again propose me for examination.

nation. To this notice he premised, that he conceived it to be unnecessary, since the merits of his first proposal had not yet been considered. But unfortunately for mankind and himself, he was shortly after again taken ill, and was in consequence obliged to leave London for the recovery of his health, a few days before the time arrived for making his motion. Previously to his departure, however, he wrote a letter to Dr. Baillie, in which, after stating his own inability to propose me, he delegated that office to him. Accordingly, Dr. Baillie produced this letter at the meeting of the college in September, and then proceeded to execute his trust. This was resisted by the same men, who had opposed the former motion for my being examined. It was urged by them, that the new bye-law required the proposal to be made by the very person who had given notice of it. To this it was answered, that as the avowed object of the notice was to allow time for enquiry into the character of the person to be proposed, the spirit of the bye-law prescribing it had, in the present case, been completely satisfied. And it was asked, whether a delegation had never formerly been received, when he who had declared his intention of bringing forward any measure was prevented by illness, or the unavoidable duties of his profession, from attending at the college

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to propose it. No reply was made; but a question was immediately put, whether the *present* delegation should be admitted. A ballot being taken, twelve votes were found against the delegation, and nine in favour of it.

An attempt was then made to bring in a different way before the college the original question of examination. It was maintained, that the first proposal by Dr. Pitcairn was still upon their table, as it had never been decided upon, and that it ought now to receive their determination. The minutes of the meeting in September 1797, were in consequence called for and read, upon which it was declared, that Dr. Pitcairn's proposal had then been *finally disposed of and rejected*. No cloud, therefore, now hangs over the conduct of the college; nothing now intervenes to alter its natural colours, or to distort the light by which it is seen.

Your Lordship, perhaps, notwithstanding the facts which have been described in the foregoing narrative, will scarcely think it possible, that the college of Physicians should have intentionally violated their engagement, or have advisedly acted in contempt of the grounds of a decision
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in the Court of King's Bench; and hence you may imagine, that they were influenced by some well-founded objection to the person proposed for examination, though from ignorance or inadvertence, they might have given to their conduct the appearance of a desertion of principles, which they were bound to maintain. Lest, therefore, you should be induced by your ancient respect for the college, to form an opinion so unfavourable to my cause, I will now attempt to prove, that no well-founded objection did exist to my being examined by them; I mean, no objection, which any of those who resisted the proposal for an examination, would venture publicly to avow. In such an undertaking I must necessarily speak much of myself; but for this I hope I shall readily be pardoned, since I stand now before your Lordship in the situation of one accused, and hence acquire a right of producing whatever testimony I can collect in my favour.

By the charter of the college, the qualifications required for its members, are learning and good character. In addition to these, a bye-law demands from licentiates that they be of seven years standing, and thirty-six years of age, before they can be proposed for admission by means of an examination. Since, therefore, I
 possessed

possessed, without dispute, the latter requisites, all the avowable objections, which, in ordinary times, could possibly be brought against me by the college, are reducible to two kinds; one containing those which have any relation to my learning; the other, such as are connected with my moral reputation.

When I was proposed at the college by Dr. Pitcairn, all that was asked was, that they would examine whether I possessed the proper degree of knowledge for a fellow. Nothing more, therefore, on this head, could reasonably be required by them, before the trial, than a strong presumption of my being able to undergo it. Now this presumption was manifested to them in various ways. Their own advocates had asserted, in the case of Dr. Stanger, that the charter of incorporation, though it divided the physicians of London into two classes, members of the corporation and licentiates, demanded however the same learning from both; and that the college would act contrary to their duty, if they gave equal liberty to practise medicine to descriptions of men possessing unequal degrees of ability*.

But,

* This is a dictate of common sense; but though found by the counsel of the college, in the charter which was granted to them nearly three hundred years ago, its justness was not ac-

But, nine years previously to my being proposed by Dr. Pitcairn, I had undergone the trials of fitness, to which licentiates are subjected before admission to practise, and if I may venture to credit what was said by Sir George Baker, and the censors who examined me, I had passed through those trials with more than ordinary ease. In the interval, I had become a member of the Royal Society, the certificate of my fitness for which was signed by the late and present presidents of the college, Sir George Baker, and Dr. Gisborne, and by four others of the present fellows of that body. During the same interval, I had endeavoured to extend the boundaries of our knowledge in various parts of natural phi-

knowledge when the late Dr. Fothergill became a licentiate; for he was permitted to exercise his profession in London, under a bye-law which declared, that one reason for constituting a class of licentiates was, that many persons who were fit to practise medicine, had not, however, sufficient learning to be fellows. But there is reason to believe, that the late admission, on the part of the college, of equality in point of learning between the fellows and licentiates, was merely to serve a particular purpose during the trial of Dr. Stanger's cause. For in the testimonials of fitness to practise, which they give to licentiates, they still refuse to style them doctors of physic, though they constantly bestow that title on fellows; and it was, I suppose, in consequence of this distinction, that a president of the college had the effrontery to tell a learned professor of Gottingen, when upon a visit to this country a few years ago, that the licentiates of the college were not *proper* physicians.

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lofophy; and two of my attempts of this kind, certainly not the moft confiderable, had been recorded in the printed tranfactions of the Royal Society. As I had thus demonftrated induftry at leaft, in the cultivation of fciences collateral to medicine, it is not probable that I had been inattentive to the ftudy of my own profeflion, fince my peace of mind neceffarily depended upon my underftanding it. Nor had my opportunities of gaining experience in it been very fmall; for I had been eight years a phyfician to an extenfive eftablifhment for the relief of the fick poor, and I had alfo been phyfician for fome time to another inftitution of the fame kind, but ftill more confiderable. From all thefe circumftances, I think it will readily be allowed by your Lordfhip, that it was not likely I had become lefs learned fince paffing the trials of a licentiate, and that confequently there was a ftrong prefumption of my being fufficiently learned to be admitted to undergo the additional tests of knowledge, if there be any fuch, which the ftatutes of the college demand from thofe who defire to be fellows. This will be the more readily granted, when it is confidered, that though the college contains at prefent many learned men, and will no doubt continue to contain many fuch, as long as the inhabitants of this country are fufficiently rich to reward li-

berally the professional labours of physicians, yet the degree of knowledge which is just sufficient to enable any person to enter their body, cannot be regarded, even by themselves, as very high : For,

First, among the forty-three members who have undergone the required examinations, however they may have differed in original talents, industry, opportunities of studying their profession and modesty, there is only one, whose learning is said to have been declared insufficient upon his first application for admission :

And secondly, the three physicians, who to my poor apprehension have appeared to have the weakest understandings and the smallest extent of knowledge, of all those with whom I have happened to converse, either in this or any other country, are fellows of the college of London.

I come now to the objections which might be brought against me on account of my moral reputation.

How far my previous life had entitled me to a reputation for good morals, it does not become me to say ; and I am for many reasons unwilling to exhibit the direct testimony of my friends

friends upon this part of my character. Such a step, indeed, seems on the present occasion altogether unnecessary, as I think I can easily prove, that the majority of those who formed the meeting of the college, when Dr. Pitcairn proposed me for examination, did not conceive me unfit to be received into their corporation, by reason of my immorality.

It will, I suppose, be readily granted, that as many, at least, as voted for receiving Dr. Pitcairn's proposal, entertained no objection to me, on the ground which has just been mentioned. Now, the numbers on the different sides of the question, when his proposal was rejected, having been thirteen and ten, if I can only shew, that *two* of the thirteen had shortly before manifested their satisfaction with my character for morals, the object at present in view, must, in my opinion, be looked upon as gained.

Dr. Gisborne, the president of the college, who I venture to maintain voted for the rejection of Dr. Pitcairn's proposal, some years ago, as has already been mentioned, signed a certificate of my fitness for being a fellow of the Royal Society. Now, as a good moral reputation is always esteemed there a necessary ingredient of fitness, he must certainly have then be-
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lieved me to be possessed of that qualification. That he professed a similar belief, only a few months before Dr. Pitcairn proposed me, I can assert upon the authority of Dr. James Robertson, a fellow of the college, at present with his Majesty's forces in Minorca; and I take upon myself to say, that nothing happened in that short interval, which ought to have lessened it.

Sir Lucas Pepys was another of the fellows who voted for the rejection of Dr. Pitcairn's proposition. In the beginning of the year 1797, I appeared before the Board of Censors of the college, to complain of irregular conduct in an apothecary, who was also present to answer to my charge. Sir Lucas Pepys, then sitting as president of a court, the members of which are *sworn* to do justice, addressed the delinquent in a grave and solemn speech, in the course of which he delivered these words: "Dr. Wells is no mean person; he is well known to the world both as a gentleman and a scholar." Whether this opinion be just or not, is at present no matter of enquiry. But in tenderness to Sir Lucas Pepys, acting as a judge, under the solemn obligation of an oath, it must be supposed that he really entertained it. In like manner as when I spoke of Dr. Gisborne, I venture here to affirm, that nothing occurred in my conduct from that time

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to the 29th of September in the same year, which should have induced Sir Lucas Pepys to alter his opinion of me as a gentleman.

I might proceed to shew, my Lord, that other fellows of the college refused to receive Dr. Pitcairn's proposal, upon grounds that had no connection with my moral reputation. But, as what I have already said, appears sufficient for attaining the end I proposed, I quit with joy a subject so distasteful, and betake myself to one more congenial to your Lordship's feelings, the consideration of the support which was given to my fitness for being received at the college, by the characters of him who made, and of him who seconded the proposal for my being examined.

One of those gentlemen must already be well known to your Lordship. —I cannot, however, refrain from saying respecting him, that the son of the gallant Major John Pitcairn, who died the glorious and enviable death of a soldier, fighting for his country, and the adopted son of the high-minded, upright, and generous Dr. William Pitcairn, must have every title to the strictest honour, which inheritance, education, and domestic example can bestow. But why do I speak of titles, after his countrymen had acknowledged
his

his complete possession of that most invaluable property, and had in consequence, as well as from their high opinion of his learning and skill, placed him at the head of the profession of medicine, in the metropolis of Great Britain*?

He who seconded the proposal, Dr. Matthew Baillie, is more upon a level with myself, in regard both to age, and length of residence in London. Somewhat, therefore, of the obscurity which involves almost every young physician, may have hitherto concealed him from your Lordship's notice. But that obscurity is fast dissipating, and he must soon, my Lord, very soon, appear to your view, with all the just proportions and accurate lineaments of a man of integrity, learning, and great professional skill.

Can it be conceived then, my Lord, that such men were ignorant of the character of one, with

* Two circumstances must concur to place a physician at the head of his profession in London; 1. Great employment, which alone, is certainly not sufficient for that purpose, as it is often possessed by persons of no considerable ability. 2. Respect from other physicians, indicated by their frequently requesting his aid in their practice. This can arise only from a high opinion of his honour and skill, of which qualities in a physician, scarcely any but those of his own profession have either opportunities or capacity to judge rightly. Dr. Pitcairn, from the death of Dr. Warren to his own unfortunate illness, was indisputably the physician in London, in whom those circumstances existed together in the greatest degree.

whom

whom they had been acquainted for many years; or, that believing it to be unfit for mixture with the college, they would yet pledge their own honour upon its pureness? None scarcely are so depraved as to do wrong for its own sake; temptation is for the most part necessary to induce the most abandoned villain to add to his crimes. Supposing now for a moment, that Dr. Pitcairn and Dr. Baillie were capable of being actuated by unworthy motives, they could not have possibly gained aught by proposing me. They could not desire to get rid of importunity, for what they did was of their own free motion; or to repay favours which had been received by them, for on the score of good offices I was already greatly in *their* debt. On the other hand, they knew well, that what they were doing was highly disagreeable to the governing members of the corporation. These men they were obliged to meet frequently, either in ordinary society, or in the exercise of their profession, or at the comitia of the college. It was, therefore, of importance to their ease and comfort at least not to offend them. Since, however, they did offend them, without deriving the smallest advantage to themselves from their conduct, they must necessarily have had the firmest conviction of its rectitude; and in this conviction I find the strongest proof I can offer, that in

point both of learning and moral reputation, I was not unfit to be examined for admiffion into the College of Phyficians of London.

I have now, my Lord, confidered the two grounds, upon which the college, confiftently with their charter, might poffibly have regarded me as unfit for admiffion into their body. But perhaps it will be faid, that they drew their objections to me from a fource different from either of thofe which have been mentioned; that they believed me infected with the madnefs of the prefent times, and defirous of entering their corporation, for the purpofe of affifting more effectually to deftroy it, along with every other antient eftablifhment in this country. Such at leaft were the principles of conduct attributed by many of the fellows of the college to thofe licentiates, who had engaged in the fcheme of opening the corporation to every phyfician of learning and honourable charaâter. Even after Dr. Stanger's caufe was determined, when apparently no object to be gained by calumny exifted, one of the fellows, Dr. Robert Bourne of Oxford, a gentleman, as I have fince known, of great prudence, and of the mildeft manners, and who was then probably not acquainted with any one of thofe licentiates, placed notwithstanding a revolutionary fpirit among the reafons
which

which were assigned by him, in a public oration, for their attempt to gain admittance into the college. Nothing can more strongly demonstrate the pains, which had been taken to propagate such slander, than its having been received, credited, and still further spread by Dr. Bourne.

Opinions, leading to the overthrow of the monarchical part of our constitution, have long existed in this country, in a greater or less degree; but since the termination of the grand rebellion, they have been, till very lately, almost entirely confined to a few speculative men, who have shewn little desire to gain profelytes, or in any other way to attempt a completion of their fanciful projects. Neither therefore the college of Physicians, nor, I believe, any other of our corporations, ever formerly refused to admit a person among them, merely on account of his notions of government, provided he had complied with the forms which were prescribed by the laws of the country, or their own private regulations. But the modern holders of republican principles, if indeed the workers of confusion can be said to possess principles, and if what tends to the misery of the whole can be denominated republican, follow a far different course. They labour with an apostolic zeal to

imprefs their tenets upon others. No fancy is so wild as to be refused admittance into their minds; and whatever exists there is regarded by them as a legitimate cause of action. To employ the influence which they derive from places of trust under an antient government, as a means of subverting it, is with them a duty; their great ambition is to shew, that they are ready to sacrifice friends, family, and country, to obtain their beloved object, the destruction of order. It appears, therefore, highly proper, that the guardians of the different public establishments, to whom any discretion is in this respect allowed by law, should resist the entrance of every person, who notoriously holds opinions unfriendly to their existence. But though this be granted, it surely ought not to follow, that a vague surmise, an unauthorized suspicion of disloyalty, should operate to the exclusion of any one from a situation of honour or profit, to which he is otherwise legally entitled. Envy and malice in their native forms have considerable influence over human affairs; if permitted to assume the shape of patriotism, their power must be irresistible.

Upon what ground the college charged the licentiates with being disaffected to the constitution of their country, I know not. It was clearly no proof of their being so, that they appealed to
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the Court of King's Bench, for a rigid execution of a charter, which had issued from the most tyrannic prince of the despotic house of Tudor; or that they founded their title, to what they prayed the court to grant, upon the interpretation given to that charter by your Lordship's immediate predecessor, Earl Mansfield, certainly no friend to levelling principles, or to seditious combinations of men. Perhaps the proof was derived from this circumstance, that no one of the licentiates who signed the address to the college, in which they set forth their right to be examined for admission into the corporation, either enjoyed, or expected to enjoy, any professional honour or advantage directly connected with the present government of the country. "Is it probable that these men," the fellows of the college might say, "who are attached by nothing special to the existing constitution, can desire its continuance? Our own bosoms declare that they cannot; they must, therefore, be labouring to subvert it." But the pampered Rich basely deserted his master in the hour of distress, while thousands of our countrymen, bound to their sovereign by no other tie than their allegiance as Englishmen, fought and died in his defence. From whom did the expiring cause of royalty in France receive its last support? Not from the pensioned courtiers
of

of Versailles; but from a Stoflet, and a Charette, men before unknown, but whom the occasion that called for their talents formed into heroes; from the plain and simple inhabitants of Brittany, actuated by no motives but what arose from attachment to the antient government of their country, and reverence for the religion of their fathers.

Leaving, however, to more able advocates, what further defence may be deemed proper for the other licentiates, who have been charged with disloyalty by the members of the college, I shall now confine myself to a special vindication of my own character from so atrocious a calumny. If, my Lord, I speak with warmth upon this subject, I trust that I shall find an excuse in the energy of your own feelings. He that is wealthy may be robbed, without knowing that he has experienced an injury. But the poor man's all is often included in a single object, which, though to other eyes worthless and contemptible, may be to him the sole spring of joy and hope. Any attack upon it excites his utmost powers of resistance; its loss leaves him without bond to the world, or interest in its concerns. When we read of a rich man's despoiling a poor neighbour of his only property, "one little ewe-lamb which lay in his bosom,"

and

and was unto him as a daughter," our sympathy with the sufferer is nearly as great, as if he had been a monarch unjustly expelled from his dominions. I may well then be allowed to feel acutely the attempt which has been made to strip me of almost my only possession, to which my title is founded upon paternal discipline and personal suffering, and has been illustrated by the whole tenour of my life.

I was born, my Lord, in Charlestown, in South Carolina, but my parents were from Scotland. My father, who was a man of observation and a scholar, though a tradesman, had carried with him those opinions respecting the kingly branch of the British constitution, which in the former state of our parties constituted Toryism; and the resistance they met with in a country, the inhabitants of which were, from their situation, always somewhat inclined to republicanism, served only to strengthen them. These opinions he early endeavoured to impress upon myself. To remove, however, every fear of my being infected, from my companions, with the factious and disloyal principles, which had very generally pervaded the British Colonies in America, from the conclusion of the peace of Paris, in 1763, and to give me at the same time an opportunity

portunity of receiving the elements of a sounder education, in other respects, than Carolina could afford, he sent me while yet a boy to this kingdom.

In one of his views he was not disappointed. For some time after I had returned to Carolina, to pass a part of my youth under his immediate care, a paper, called AN ASSOCIATION, having been offered for signature to all the male inhabitants of Charlestown above sixteen years of age, the subscribers to which bound themselves to obey implicitly certain authorities unconnected with the former government of the country, I was one of a very few who refused to put their names to it. Those who had now a legal controul over my conduct, my father having shortly before fled from Charlestown to avoid persecution, strongly urged my compliance. They stated, among other things, that many persons of the most undoubted loyalty had signed the ASSOCIATION, and that a continuance in my refusal would expose me to the resentment of the populace. My answer was, that men of established reputation might conceive themselves entitled to a certain latitude of conduct, to which I could not pretend, who had yet a character to gain; and that I was therefore determined, whatever
might

might be the event, that my entrance into manhood should not be marked by what appeared to me an act of treason and rebellion. I was consequently obliged to leave Carolina, altogether uncertain of the future means of subsistence; but I found them here, in the exertions of a father, who, to supply me with what was necessary for the prosecution of my studies, submitted to privations ill befitting his age, and former habits of life. I was in this way enabled to take the degree of doctor of Physic, at Edinburgh, in 1780. Charlestown was now in the possession of his Majesty's forces, and I returned to it for the purpose of collecting the scattered remains of my father's fortune. While there, though exempted by my profession from military calls, I made an offer of my personal services to the commandant of the town, the present lieutenant-general Nesbitt Balfour, and was appointed by him an officer in a body of volunteers, who, by performing a part of the duty of the garrison, enabled a greater number of the regular troops to take the field, than could have done so, without such aid. When Charlestown was abandoned by the king's forces, I went to East Florida. Shortly after my arrival there, apprehensions being entertained for the safety of the province, I requested permission from governor, now general Tonyn, to assist in its defence,

fence, and received from him, in consequence, the command of a company of volunteers, who were to serve without pay. This company I raised, and kept together as long as the fears continued, on account of which it had been formed.

I have thus mentioned, my Lord, some of the facts which I possess in proof, that my *conduct* at least was not, formerly, disloyal. They happened at a time of life, from the age of eighteen years to that of twenty-six, when actions are not often discordant with internal feelings; when the veil of hypocrisy is seldom worn, and, if ever assumed, is soon blown aside by the tempests of passion, which so frequently arise in that season of human existence. I shall, however, exhibit more direct testimony that my conduct and principles were in unison. I shall produce to your Lordship a profession of attachment to my country and its constitution, which was made by me in the midst of enemies, from an unwholesome prison, and while threatened with assassination on account of that attachment. For, going to Charlestown, in 1783, upon some family concerns, I was arrested there and thrown into goal, a few days after my arrival, in violation of a flag of truce with which I had entered the country. Such, at least, was the opinion of governor

vernor Tonym, who had given that flag; for as soon as my arrest was known in Florida, he sent a commissioner to Carolina, Mr. Wyllie, the present chief justice of the Bahama Islands, to demand my release. In the mean time, a publication appeared respecting me, signed by the gaoler in whose custody I had been placed, which began thus; "William Charles Wells, a political sinner of the first magnitude in this land, and now suffering but a very small proportion of those pains and penalties which his high crimes and misdemeanours have so justly deserved, in the common goal of this metropolis," &c. Nature had not formed, nor had education trained me, to submit with silence to oppression. By means of money, I got a letter inserted in one of the Charlestown news-papers, the following extracts from which will shew to your Lordship, whether my sentiments then partook of disloyalty.

Charlestown, in Gaol, July 17, 1783.

" I LEFT this place in August, 1775; pur-
 " posely to avoid signing a paper, at that time
 " handed about under the title of AN ASSOCIA-
 " TION. I returned to it in January, 1781,
 " when in possession of the British army, and
 " left it again with those troops in December,

“ 1782. I am, I ever was, and I ever shall be,
 “ a subject of Great Britain.

“ In what respect, therefore, I can be a ‘ po-
 “ litical sinner of the first magnitude in this
 “ land,’ and what are those ‘ high crimes and
 “ misdemeanours’ which I have committed, I
 “ cannot well conceive.—If indeed to wish
 “ well to my country while contending with
 “ other powers, and to be ready at all times to
 “ lay down my life in support of its honour and
 “ interests, be a crime, I cheerfully plead guilty
 “ to the charge.”

“ For a freeman to be deprived of his liberty,
 “ and lodged in a common goal; to be kept
 “ constantly locked up in a room, whose ceiling
 “ is in that condition that the rain pervades it
 “ in every shower, sometimes in such quantity
 “ that it must be carried out in pails, and whose
 “ only window looks to the north, a quarter of
 “ the heavens from which the wind never blows
 “ when the weather is most sultry, and which
 “ not being glazed, obliges him to exclude the
 “ cheerful light of day, at the same time that he
 “ shuts out the storm* ; lastly, to be without the

* Thunder-storms occur almost daily in South Carolina, in the months of July and August, and almost always proceed from the north or north-west.

“ conversation

“ conversation of his friends, whom the dread
 “ of popular resentment prevents from visiting
 “ him * ; if these sufferings are but a small por-
 “ tion

* However unconnected it may appear with the subject of this letter, I cannot forbear mentioning the conduct of two of my friends in Carolina, Mr. John Harleston, and his wife, Mrs. Elizabeth Harleston, persons of rank and fortune in that country. I had received many civilities from them during my stay in Charlestown, while it was a British garrison, and had on my part, done them some small service. But small as this was, it sank deep into their noble natures, and constituted a debt, unused as they were to receive obligations, which seemed to them inextinguishable. On my return to Charlestown, with the flag of truce, they insisted upon my staying at their house ; but it was during my imprisonment that the energy of their friendship was chiefly conspicuous. No one day of the three months which it lasted passed away, without my receiving from them repeated instances of kindness, such as I could have expected only from those, who were bound to me by the closest ties of blood. This conduct would at any time have merited my warmest gratitude ; but when I consider the circumstances under which it occurred, my feelings altogether unman me. Mr. Harleston's estate had been heavily amerced by the legislature of South Carolina ; and at that period, when the affairs of the state were regulated by the narrow principles of a petty corporation, nothing could tend more to frustrate his hope, that the fine would be taken off, than his shewing attention to any one in my situation. The reins of government also were then so feebly held, that the populace almost daily wreaked their vengeance upon such as had fallen under their displeasure. One night, during this anarchy, a mob surrounded Mr. Harleston's house, threatening to destroy it on account of his behaviour to me. He was from home ; but his wife, with the spirit and dignity of a Roman matron, went out to the rioters, and told them, that her husband and herself had
 done

“ tion of what he is to bear, he can look for-
 “ ward to nothing but DEATH, as the full ex-
 “ piation of his crimes. Grant him but the
 “ choice of the mode, and he will thank Heaven
 “ for the opportunity of demonstrating his at-
 “ tachment to his sovereign: let but thousands
 “ witness that his last prayers were for his coun-
 “ try’s prosperity, and it will afford him more
 “ exquisite happiness in the extreme moments
 “ of his life, than good men enjoy when angels
 “ sing requiems to their departing souls.”

The smallest drop of blood may become vi-
sible on the surface of an animal body, and may

done nothing towards me but their duty, and that they should
 not be prevented from continuing to perform it, by any
 menace whatsoever. One of those persons is since dead; the
 other still exists an ornament to her sex. Excellent woman!
 enjoying in affluence, in the midst of thy children, and their
 children, the calm evening of a well-spent life, and looking
 forward with a firm hope, inspired by our holy religion, to
 another and a better state, though thou seemest already to pos-
 sess as much of happiness, as is compatible with the infirmity
 of our present natures; it may yet afford thee some mo-
 mentary satisfaction to know, that neither distance of place,
 nor intervention of time, hath lessened my sense of thine un-
 speakable goodness; and that, at this moment, my bosom
 heaves and my eyes drop tears, while I reflect, that without thy
 tender cares concerning me, when sick and in prison, and far
 removed from those, whose duty it was to render me service
 under such distress, I might long ago have been numbered with
 the dead.

ferve

serve there some special and useful purpose; sent back to the heart, it is mixed with such a multitude of similar particles, that all marks of it as an individual are lost. In like manner, having returned from the frontiers of the British empire to its capital, I naturally sunk back into the obscurity, which was suitable to my condition in life, rendered now still more low by the poverty, which had been brought upon my family, by their adherence to a great public cause. In more happy times, therefore, than those which have since followed, I could scarcely have expected an opportunity of demonstrating a love for my country, otherwise than by a ready obedience to its laws. In consequence, however, of the attempts which some men, incited to deeds of parricide by the example of successful crimes in a neighbouring state, have made to overthrow our antient constitution, persons of every rank have within these few years been called upon to declare their attachment to it. I have gladly obeyed this call; and my name appears in the list of those inhabitants of London, who signed the declaration at Merchant Taylors' Hall, in December, 1792; and in that of the same description of persons who signed the declaration at Grocers' Hall, in December, 1795. More lately, when professions alone were deemed insufficient for the public safety, and a demand

was

was made upon the lovers of their country for their services as its armed defenders, I obtained the honour of being enrolled in a body of men, perhaps not unknown to your Lordship, THE TEMPLE ASSOCIATION, and since I have belonged to it, my exertions to fit myself by a knowledge of military exercises, for the great object of its institution, have not been less than those of many members, younger than myself, and probably not more engaged in other serious pursuits.

It may now appear to your Lordship, that I have spoken of every possible personal objection to my being examined for admission into the College of Physicians. But as pretexts are never wanting to those who wander from the path of honour in search of them, I shall take the liberty of mentioning still another ground, which I have been told they affected to have, for their refusing to enquire into my qualifications. For, Dr. Pitcairn informed me, in the course of last summer, when it could not be foreseen, that he would be unable in the ensuing September to propose me a second time for examination, that, contrary to his former opinion, he now believed that his intended motion would be opposed, on this among other accounts, as he understood, that I
had

had been active in the late dispute between the fellows and licentiates.

That an individual should lose his title to a privilege which had been adjudged by a court of law to belong to a body of men, of which he was a member, merely because he had lent his aid towards obtaining that adjudication, may be perfectly consistent with the notions of right entertained by the College of Physicians, but is certainly not so with those of your Lordship. For if any person had been pre-eminently active in the dispute alluded to, it was surely Dr. Stanger, who, by his applications to the Court of King's Bench, had subjected the college to considerable trouble, expence, and obloquy; and yet your Lordship expressly declared your conviction of his fitness to become a fellow of that corporation. My share in the dispute may be described in a very few words. When it was proposed to me by some licentiates, with whom the scheme originated, to assist in endeavouring to obtain admision into the college by process of law, if it could not otherwise be gained with honour, I immediately consented. I was afterwards appointed one of five to draw up an address to the college, and this address Dr. Cooke, Dr. Stanger, and myself, delivered to the president. These were the only parts of my conduct,

in that undertaking, which can be called public, except this appellation should also be given to the subscribing of a small sum of money towards defraying its expence. My private conduct in it was studiously guarded; for as it very soon appeared to me, that the dispute must be terminated by a court of law, I held all private discussion of it with the fellows as useless, and tending only to produce mutual irritation of mind. I therefore, constantly forbore to *introduce* it as a subject of conversation, in the presence of a fellow. My reserve upon this point was indeed so strict, that one of that order, with whom I am more intimately connected than with any other physician in London, could not refrain from mentioning it to me, at the same time that he compared my behaviour in this respect with that of another licentiate of his acquaintance, who made the dispute a topic of conversation whenever they met. I mean, however, only to state, not to extenuate my conduct; for had it been as active as that of Dr. Stanger, I should for this very reason have thought it entitled to considerable applause. But I feel ashamed at occupying your Lordship's attention with such trifles. Nothing indeed could have induced me to present them to your notice, but the desire of affording you the most ample grounds for reconsidering the opinion, which
you

you publicly gave of the College of Physicians; and trifles often furnish the most sure, because the most unguarded, avenue to a knowledge of the characters of men.

I HAVE thus, my Lord, endeavoured to prove, that the College of Physicians have not, by their conduct since the decision of the Court of King's Bench, in the case of Dr. Stanger, shewn themselves worthy of the high praise, which you were then pleased to bestow upon them. But it appears to me, that if your Lordship had minutely examined the materials of which that body is composed, or had been well acquainted with its previous proceedings, you would not have regarded the honour and good faith of its members, as sufficient barriers against their acting unjustly towards the licentiates, who should apply for admission into their corporation.

In this country, the glory of whose legislators has been to view men as they are found to be by experience, the honour and good faith of no person are, I believe, ever esteemed by the law as adequate securities for his acting justly, when he is tempted to act otherwise by interest.

The judges of our superior courts of law are selected from a profession, the conduct of whose members is more open to public inspection, and is consequently better known, than that of the members of any other. No mistake, therefore, can well occur with respect to the characters they possessed before their elevation to the Bench, more especially as few receive that honour before they are past middle age; and every one admits, that, in modern times at least, they have been very generally, if not always, chosen by the executive power with the purest intentions. When they afterwards appear to the world in the exercise of their peculiar functions, the eyes of all men are fixed upon them. Every part of their conduct is scrutinized with the utmost care; by some whom education and habit have particularly fitted for this purpose; by others, whose dearest interests lead them to turn their whole attention to this single point, and whose disappointed hopes naturally suggest some fault in those, who have dissipated their gay dreams, and have awakened them to poverty and disgrace. Yet even these men, so formed to their stations, separated by their retired life from many causes of bias to human opinion, venerated by their country if they act uprightly, detested if they furnish the least suspicion of a contrary conduct, possessing their places by the
 most

most certain tenure to persons of honour, receiving for their labours a fixed and ample reward, and solemnly sworn to administer justice impartially, are still supposed liable to be influenced by improper considerations, and are therefore forbidden to try a great class of causes, when these occur in the counties where they were born, or at present reside.

If a situation can be conceived in which interest could furnish no temptation to the abandoning of duty, or none which might not be easily resisted, this would surely occur, when we were charged with the preservation of the life of some one connected with us by the closest ties of consanguinity, who from tender years or imbecility of mind, might be unable to protect himself. On one side, good faith, honour, humanity, the claims of blood, would urge us to the faithful execution of our trust; on the other, public execration, eternal remorse, and disgraceful death, would necessarily present themselves as consequences of its breach. Yet our Saxon ancestors, perhaps not less virtuous than any other nation in the world, whether antient or modern, building their law upon experience, and knowing hence how unfit men are to resist repeated attacks of interest, where there is the smallest chance that their yielding to them will
be

be concealed, refused to commit an orphan, or person of insane mind, to the care of the next heir, though he were the nearest relation.

It would, I think, be difficult, if not impossible, to point out, in any part of the world, a large body of men, who are more likely, in their collective capacity, to regulate their conduct by the principles of honour and good faith, than the Commons of the Parliament of Great Britain; and yet not many years have elapsed, since they confessed by their proceedings, that they had often corruptly exercised the power of determining contested elections to their House, and, by a noble act of general justice, deprived themselves of the means in future of violating the rules of right in detail.

Distrust of the virtue of mankind, seems indeed to be a leading principle of the Constitution of our country. The supreme power of the state is vested in no one person, or set of persons; but is broken down into various parts, which are distributed among different descriptions of men. Each of these, from the original laws of human nature, aims at its own aggrandizement, which the others labour equally to oppose. From this contention arises the most lovely order; our public happiness is thus bot-
tomed

tomed in our private infirmities, and the stability of our government is secured by the very means, which to superficial observers appear fraught with its destruction.

If therefore it cannot be inferred from the common qualities of Englishmen, that the College of Physicians, when under no other control than that of honour and good faith, will always act justly, it appears to me that, setting aside actual experience, the only ground for expecting such conduct from them must be looked for in the habits and principles, which physicians acquire in the practice of their profession. The probability of finding it there shall be my next subject of enquiry. This perhaps will be best conducted by considering, in the first place, the state and estimation of medicine, when exercised as a gainful art, in ages and countries different from our own.

When men first begin in any country to practise the medical art for hire, their knowledge of diseases, and of the proper modes of treating them, is necessarily very small. To conceal, therefore, their ignorance, they affect mystery, and have recourse to various modes of deception. Thus, in all rude nations, physicians have pretended to use supernatural means in the cure of diseases;

eases; among those nations indeed, the different trades of conjurer and physician are commonly exercised by the same person. But such a course of life must debase the character, in every respect, of him who follows it. No one can promise to himself, that he will stop at any certain point in villainy. Temptation solicits him to proceed, and his powers of resistance diminish as he advances; till at length he arrives where honesty and truth seem no more than scare-crows, set up by designing men to prevent the weak and timid from pursuing their own good.

As the knowledge of diseases and their remedies increase, the obtaining of it becomes more difficult, and from the general progress of improvement, there are now men who can estimate the value of the acquisition. Physicians are therefore less tempted either to conceal their methods of cure, or to pretend to derive assistance from supernatural agents. Hence medicine, considered as a gainful profession, has for the most part been less despised in civilized, than in barbarous nations. It appears, however, to have been held in very little estimation, even by the most polished nations of antiquity, of which we have any tolerably well authenticated accounts.

In

In Egypt, a physician, who attempted to cure a disease by means different from those which were mentioned in the sacred books, forfeited his own life, if his patient died. By the confession of Hippocrates, medicine was regarded by the Greeks as the lowest of the arts. The oath which he exacted from his scholars, not to commit some of the vilest crimes, and to keep secret the knowledge which he should communicate to them, is a strong proof of the truth of his observation. With the Greek comic writers, "a son of Hippocrates," was a term of derision. So low indeed was the condition of physicians in Greece, that Alexander the Great seems to have been neither affected with remorse, nor accused of cruelty, for crucifying Glaucias, the physician of Hephestion, though the death of his favourite had been occasioned by his own imprudence. Many learned men have shewn that, before Julius Cæsar, the physicians in Rome were, for the most part, if not altogether, either freedmen or slaves. Afterwards, medicine rose there somewhat in esteem, both from the greater knowledge of its professors, and the degradation of the former civil distinctions in society; but it was still attended with so little respect, that even Galen was afraid to prescribe some pepper in wine to Marcus Aurelius, for a pain in his stomach, because it was too strong a remedy for an emperor.

It forms no argument against the justness of this statement, either that kings and princes antiently exercised the medical art, or that physicians were sometimes held in considerable estimation by the great. For, in the first place, there are many arts which adorn those who cultivate them for their own use or amusement, or for the benefit of others, but which degrade the persons that practise them for money. Our country gentlemen are very desirous of knowing the diseases of horses, and their remedies: but the trade of a farrier is with us a very low one. The talent of singing is much prized by females of the highest rank; yet how meanly are those persons thought of, who gain by it their livelihood? And secondly, eunuchs, and other men confessedly of the vilest condition, have not unfrequently been entrusted with the management of empires.

Physicians have, in modern Europe, obtained a higher rank in society, than they possessed among the antients, principally however, as it appears to me, by means entirely unconnected with the exercise of their profession. For, upon the revival of a taste for letters in our western parts of the world, some persons applied themselves to the study of the antient writers upon medicine, with the view of becoming more successful

cessful practitioners of that art, than those were, who had learned it in the ordinary manner. But the same skill in languages, which was necessary for this undertaking, fitted them also for the acquisition of every other kind of knowledge, which had been treated of by the authors of Greece and Rome. They made use of this advantage, and physicians became noted for their proficiency in every branch of the learning of antiquity. This erudition naturally rendered those who possessed it respectable, and, by an obvious association, raised their profession in the esteem of the public. It produced the same effect in another way. A tedious and even expensive education was henceforward deemed requisite for physicians, which could be borne only by persons of some fortune, and therefore, less likely to be guilty of baseness and deceit; than men in the low condition of the former practitioners of medicine.

The operation of these causes was, in this country, considerably assisted by the same circumstances, that have given our merchants and manufacturers their present place in society; and by reason of this combination, its physicians hold a much more elevated situation than those of any other considerable nation in the world. When an English physician travels upon the

continent of Europe, he frequently finds that his profession, if known, is a bar to his reception into good company, and therefore very generally conceals it.

But, my Lord, though the physicians in this country have been thus freed from, what may almost be termed, the necessity, which formerly existed for using improper means to gain employment, they are still often strongly tempted to do wrong in the same pursuit. They are, indeed so often, and so strongly tempted to do so, and are at the same time, from the nature of their profession, so little liable to be prevented from yielding, by that great guardian of virtue, public censure, that it seems to me beyond a doubt, that the body of physicians here must contain a greater proportion of persons, who have made undue sacrifices to their rise in the world, than several other classes of Englishmen; than, for instance, the body of barristers, with which alone, indeed, it can properly be compared. What knowledge I have of this subject is derived from my residence in London; the observations, therefore, which I shall make upon it are, in strictness, only applicable to the state of physicians in the capital. Your Lordship, however, will not suppose it my intention to insinuate, that I have not yielded to the same temptations:

temptations: *Videa meliora proboque; deteriora sequor.*
 A soldier may relate the defeats, as well as the victories, in which he has borne a share.

The young men, who apply to the study of medicine in this country, are chiefly of small original fortune, and the greater part of this is commonly consumed in their education. Very few physicians, therefore, when they come to London to exercise their profession, which, if they have graduated at either of the English universities, they seldom do till they are nearly thirty years old, have sufficient incomes for living in the manner, which is thought here becoming the rank of a gentleman. They are consequently extremely desirous to supply this deficiency in their private fortunes by the profits of practice, and their age strongly urges them against every needless delay in attempting to accomplish this end. Barristers, from entering more early into their profession, may with less inconvenience wait the gradual approach of business. These too have frequently, soon after they commence practice, opportunities of appealing to the world, in the most honourable manner, on their fitness to be employed. They address themselves publickly to men well qualified to judge of their abilities, and upon subjects of which almost every person understands as much, as renders him capable of determining, whether
 or

or not they have been rightly conducted. If the exhibition of talents has been considerable, it is soon very generally known, and is in a short time followed by an increase of employment, from the desire of many to benefit themselves by their assistance. A physician has no such opportunity of shewing the knowledge which he possesses; he possesses indeed, on beginning practice, much less knowledge capable of being turned to immediate use, than a barrister of the same standing, and equal application. His art is founded upon experiment and observation, and the rules for exercising it are always modified by external circumstances, which can never be accurately known, except by one long conversant with diseases, as they actually occur. Skill in medicine is therefore not to be acquired by reading alone: whereas law, being a collection of the opinions and ordinances of men, is necessarily studied in books; and hence a considerable knowledge of it may be obtained by those, who have seen little of its application to particular cases. Besides, a young barrister does not appear in the management of any case, until a considerable time has been spent by him in preparation; but the first calls upon a young physician are frequently to oppose sudden attacks of disease, which do not permit his thinking long, how this can best be done. For these reasons,

reasons, it seldom happens, that physicians either merit much praise from their first efforts to cure diseases, or quickly acquire a considerable increase of practice from any single display of great talents. They must consequently be strongly disposed to adopt other means to raise themselves to notice.

The present possession of practice being a considerable recommendation of physicians to further employment, every young physician finds an advantage in having it thought, that his business is greater than it actually is; and should he endeavour to impress the public with such an opinion, the privacy with which the medical profession is for the most part exercised, prevents any flagrant discovery, that it is not well founded. Many of them are therefore induced, notwithstanding the smallness of their incomes, to imitate the exterior expence of their seniors, hoping that the world will hence believe, that they enjoy a corresponding degree of employment. The business of a barrister being, on the contrary, chiefly conducted in open courts, any attempt to make it appear greater, than it is in reality, would soon expose him to ridicule and disgrace. He lives, therefore, except his private fortune be large, for many years in Chambers, and goes to Westminster Hall in a
 hackney

hackney-coach; whereas a physician, sometimes immediately upon coming to town, very commonly only a year or two after, occupies a whole house, and visits patients in his own chariot. But this expence, though its object should be ultimately attained, reacts in the mean time upon the cause which gave rise to it, and augments in him the necessity for professional gains.

The female sex, it is well known, have great influence on the extent of practice which physicians possess. But, for many reasons, they are averse to communicate their own complaints to any one who is unmarried, and they naturally recommend to others the person whom they consult themselves. Physicians, therefore, very generally marry soon after they commence practice. As they are then far from being wealthy, if they marry women in other respects equal to themselves, they seldom receive fortunes with them. In this case, the calls for money increase, for some time at least, more rapidly than the beneficial effects of their new situation; and hence, actions, which were formerly regarded as contemptible, will now perhaps seem even praiseworthy, from affording subsistence to the objects of their most tender affections. If, on the other hand, they marry rich women, these are commonly unequal to them in some material circumstance,

cumstance, in age, education, habits, or personal appearance. But a sacrifice to interest, in so momentous a concern, is surely no pledge, that they will not make others of less importance, in the exercise of their profession. Barristers are much less exposed to this cause of ill conduct in the pursuit of employment. Marriage gives to them no advantage in it; and hence, they generally either enter into that state later in life than Physicians, or remain single to the end of it.

What I have said, my Lord, seems sufficient to shew, that the physicians of London are often placed in situations, in which temptations to do mean things for money are known by experience to act forcibly. But collections of men appear to be more or less virtuous, nearly in proportion to the number and greatness of the enticements to vice, with which they are surrounded. The principles of honour may, indeed, become more firmly fixed in the bosoms of some few individuals of uncommon make, from the very attempts which are made to loosen their hold; but though gold is purified and brightened by fire, common metals are by the same agent turned into dross. According to the model of prayer, which has been given to us by the divine author of our religion, we are not to petition

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for strength to resist temptation; man's presumptuous confidence in his own powers might have been heightened by such a permission: but we are humbly to beg our heavenly father not to *lead* us into it, hereby confessing our insufficiency for the contest, whenever it shall occur.

I do not, however, my Lord, wish to convey an opinion, that physicians become dishonest in the situations which I have described; my design is fully answered, if I have rendered it probable, by stating the difficulties in which they are frequently involved, that their temptations to lay aside the character of men of high honour, are sometimes too great for resistance. I now add, that proofs of their actually yielding to those temptations are furnished by what we daily hear of their needless visits to sick persons, their rapacity with respect to fees, and their servility to apothecaries*. When these, or similar practices have
been

* The present division of medical practice in this country, between physicians and apothecaries, did not commence in London, until some time after the separation of the latter from the grocers, in 1617, and was not firmly established, before the great plague in 1665, during which, by far the greater part of the physicians having fled into the country, the apothecaries were left with almost the entire care of the sick. These facts were at least advanced in a controversy, which existed about the end of the last century, respecting the title of apothecaries to practise medicine, and were not then contradicted. To support

been adopted, they are not often afterwards abandoned, because the circumstances which gave them origin have ceased. The pride and delicacy

port them, it may be mentioned, that according to a publication from the college, dated 1698, the number of apothecaries in London and Westminster, sixty years before, was not 100, but was then above 800; and that in 1701, they were said to be nearly 1000, partners included. At the date of their charter, in 1617, the number was 114; so that it must have decreased for the first 20 years after their separation. This division, however, seems to have begun more early in some other parts of the kingdom; for a physician of Salisbury speaks of it in 1566 as being lately introduced there. Its origin may, I think, be placed in the greatness of the fees, which English physicians have always been accustomed to receive. I find many notices of an angel, or ten shillings, being the usual fee to them, from 1665, to the beginning of the present century; and in 1670, Dr. Goddard, a fellow of the college, and Gresham Professor of Physic, asserted, that the fees then given were according to the ordinary and accustomed rates, time out of mind in England. Many persons, therefore, who wished to receive benefit from medicine, but unable or unwilling to see physicians so largely, and at the same time too proud to solicit their gratuitous aid, would naturally apply to those, who offered both advice and medicines at a cheap rate. This also seems the chief reason, and not the greater credulity of the people, why empirics formerly abounded here, more than in any other country in Europe. For, since the complete establishment of apothecaries, as medical practitioners, the number of empirics has been considerably lessened; the descriptions of men, who on account of cheapness used to resort to the latter, now applying to the former, for the cure of their complaints. The existence then of a lower order of practitioners of medicine appears necessary in this country; and the attempts of the college to destroy it were as absurd and unjust, as they were fruitless.

delicacy of a gentleman, if once surrendered, are scarcely, I fear, ever fully regained. No one, however, who does not completely possess them,

When the division first took place, one of its effects was probably not foreseen. For apothecaries coming at length to be employed by many persons who were sufficiently rich to see a physician; when the assistance of one was desired by these in dangerous disorders, the choice of the individual was frequently left to the apothecary, he being supposed better qualified to make it, than the sick person or his family. From this time, therefore, the friendship of apothecaries became highly useful to physicians, and was often sought for, and requited by them, in the most disgraceful manner. I might bring many proofs of these points from authors of the last century; but I shall content myself with one, the authenticity of which is beyond doubt, as it is found in an account of the proceedings of the college, in establishing a dispensary for the relief of the sick poor, which was published by themselves, in 1697. They there say; "Several amongst them [the apothecaries] set themselves by all the art and industry they were capable of to frustrate the whole design; and finding no method so promising, as to stir up a party among ourselves, to oppose our proceedings, they fell to intriguing with several of our own members, *who were too easily lured off to serve the apothecaries interest, for their own private advantage.* And from this cause, as we have too much reason to believe, have chiefly sprung the unhappy differences, which are still fomented among us. But notwithstanding all the discouragements we met with from those of our own members, who *contrary to all the obligations of honour and conscience,* constantly discovered to our adversaries whatsoever passed in the college relating to this design, and exposed to them the names of such as were promoters thereof, that they might be kept out, as far as in them lay, from all patients where they should be proposed, and themselves brought in," &c. The College of Physicians, therefore, a hundred
years

them, is surely fit to constitute a part of the sanctuary of honour and good faith.

But there are various circumstances in the practice of medicine, unconnected with its profits, which tend to injure the character of those who follow it. An action at law remains at rest, except it be urged forward by human force, and its termination is induced by means,

years ago, were surely not *the sanctuary of honour and good faith*; since one part of them were then declared by their colleagues to have violated every obligation of honour and conscience in pursuit of their private interest; while those, who had thus erected themselves into censors of morals, openly confessed, that they were afraid to have it known they were doing a right thing, lest they should not be called in by apothecaries to see their patients. Physicians, in general, have in the course of the present century become more prudent, and, I believe, more honourable; but it is, notwithstanding, very notorious, that many of them at present cultivate the acquaintance of apothecaries, in ways very disreputable to gentlemen. Barristers may be tempted, though, I think in a less degree, for reasons already mentioned, to act similarly towards attornies; but the restraints upon their yielding, are much greater. Their frequent meetings in courts, and upon circuits, afford many opportunities of discovering defaulters, and of inflicting punishments, which few are hardy enough to disregard; whereas physicians, having little necessary intercourse with each other, are consequently in a great measure without the salutary fear of the reprehension of their equals. In what estimation would a barrister be held, who should give frequent and costly dinners to attornies? But it is said, and I believe truly, that physicians of great eminence have derived much of their practice from giving such dinners to apothecaries.

which

which we can easily comprehend. The value, therefore, of the talents employed by any one in conducting it may be tolerably well appreciated, and the fame which hence arises to him is almost always proportioned to his merit. It is far otherwise in medicine. Diseases proceed by their own energy, and terminate spontaneously, for the most part, in health. Such a termination, however, of a dangerous disease, if a physician has been concerned in its management, is very commonly attributed to his skill. He may at first blush at undeserved praise. At length, from frequent repetitions of it, he often fancies himself really capable of producing the effects, which he hears attributed to his agency. Again; should a barrister have any natural tendency to over-rate his talents, the frequent mortifications he must experience, in his daily contests with others of his own class, before public assemblies of men, will soon teach him to value them more justly. The same corrective is not applied to physicians. In the exercise of their profession, they appear always as dictators of rules to others, and the feeling of self-importance, which this situation excites, in time often diffuses itself over every part of their conduct. Men too form insensibly an estimate of their own worth, from secretly comparing themselves with those whom they see most commonly

monly. But well-employed physicians spend much of their time in the company of persons weakened in mind by disease, and of the female attendants of sick rooms; it ought not then to seem strange, if, like schoolmasters from conversing chiefly with children, they should acquire an opinion of their own talents, much higher than what they merit.

I shall take notice of only one other source of injury to the character of physicians. Those among them of the greatest learning and experience know well, that the most unexpected changes sometimes take place in diseases, and are best acquainted with the difficulty of referring to their proper causes, the various events that occur in so complicated a structure as the human body. It might therefore be thought, that such men would always be modest, cautious, and even timid, in the practice of their art. But this is not the conduct which recommends a physician most. It suggests to a sick person, what indeed may be true, that a doubt exists respecting the nature of his complaints, than which nothing can be more distressing to him. He often, therefore, applies to one, who acknowledges no difficulty in the treatment of diseases, who pretends to see clearly what is hidden from human beings, and who speaks of uncertain events, as if
they

they were entirely under his command. In this way, the sick man is gratified, but too frequently at the expence to the physician of one of the most valuable parts of the character of a gentleman, and faithful observer of nature. The exquisite painting by Moliere of the vanity, affectation, and pedantry of the French physicians of his time, exhibits a resemblance to the general character even of English physicians of the present day, which is sufficiently strong to make it probable, that those qualities are, in a greater or less degree, almost inseparably connected with the exercise of the medical profession. But he in whom they exist, though he should have the most upright intentions, will often decide as unjustly, when his own interest or consequence in the world is concerned, as if he had been actuated by the vilest motives. Before men, who are not governed by others, can do what is right, they must first clearly perceive it, which nothing certainly more effectually prevents, in whatever has relation to themselves, than a false or extravagant opinion of their own worth.

Many of our physicians have no doubt received little injury from the causes of the corruption of character, to which they have been exposed; and some few may have escaped their influence altogether. One of these few, Dr.
 William

William Heberden, I must conclude to have been well known to your Lordship, from the eulogy which you pronounced upon him, during the trial of Dr. Stanger's cause. He was probably, indeed, the only physician with whom you were intimately acquainted, and hence, from the natural error of attributing to a whole species the properties of its only individual we have seen, you might imagine, that he possessed his many virtues in common with the rest of his class. But Dr. Heberden, my Lord, stands, in a manner, alone in his profession. No other person, I believe, either in this or any other country, has ever exercised the art of medicine with the same dignity, or has contributed so much to raise it in the estimation of mankind. A contemplation of his excellencies therefore can afford little help towards obtaining a just notion of the general worth of physicians. In speaking of a mole-hill, we would not employ terms that had relation to the immensity of a mountain.

Were I, my Lord, possessed of talents adequate to the undertaking, I should here endeavour to describe at full length the character of that illustrious man. In this attempt, I should first mark his various and extensive learning, his modesty in the use of it, and his philoso-

phical distrust of human opinions in science, however sanctioned by time, or the authority of great names. I should then exhibit him in the exercise of his profession, without envy or jealousy; too proud to court employment, yet undervaluing his services after they were performed; unwearied, even when a veteran in his art, in ascertaining the minutest circumstances of the sick, who placed themselves under his care, taking nothing in their situation for granted, that might be learned by enquiry, and trusting nothing of importance that concerned them to his memory. To demonstrate his greatness of mind, I should next mention his repeatedly declining to accept those offices of honour and profit at the British court, which are regarded by other physicians as objects of their highest ambition, and are therefore sought by them with the utmost assiduity. I should afterwards take notice of his simple yet dignified manners, his piety to God, his love for his country, and his exemplary discharge of the duties of all the private relations in which he stood to society; and I should conclude by observing, that his whole life had been regulated by the most exquisite prudence, by means of which his other virtues were rendered more conspicuous and useful, and whatever failings, he might as a
human

human being possess, were either shaded or altogether concealed. After my description was finished, I should think it proper to say, that I had never been acquainted with Dr. Heberden, and consequently could neither be dazzled by the splendour of his virtues, from approaching them too nearly, nor influenced in my opinion concerning them by benefits he had already conferred upon me; and that standing, as he does, upon the verge of this state of existence, ready to wing his flight to another of glory, his ear must now be closed to the voice of flattery, had he ever listened to that ~~fyren~~^lren, or were I base enough to solicit her aid, in the foolish expectation of receiving from him some future reward.

I think, my Lord, it has now been shewn, that physicians, considered singly, cannot by reason of the discipline of their profession, claim exemption from the moral infirmities, to which the other inhabitants of this country are subject. Is it then to be supposed, that a *body* of them will always be governed by the strictest rules of justice? Is it, my Lord, at all consistent with the experience we have of human actions to expect, that those, who may have individually yielded to temptations of interest, will, when exposed in a collected state to similar temptations,

continue long to deserve the title of the fanc-
tuary of honour and good faith?

But perhaps it will be said here: “ Granting
“ that the College of Physicians, like other men,
“ are open to the influence of motives, which
“ pervert or corrupt the judgment, it is yet im-
“ possible not to believe, that their general con-
“ duct is agreeable to the common maxims of
“ prudence. Their reputations must surely be
“ dear to them; these therefore they will not
“ hazard, without the prospect of some advan-
“ tage to compensate the risk. But with re-
“ spect to the admission of licentiates into their
“ body, the circumstance which has given birth
“ to the whole of this discussion, what *interest*
“ have they in acting unjustly? Unless then it
“ shall be clearly established, that they have
“ such an interest, the attempts which have been
“ made by the author of this letter to depre-
“ ciate their character, must be regarded as the
“ offspring of spleen or disappointed ambition,
“ to bestow upon them no harsher appellation.”

Anticipating, my Lord, these observations, I pro-
ceed to reply to them. In doing this, I shall be
led to the last purpose of my address, namely,
to present to your Lordship’s view, several pro-
ceedings of the college, *previous* to the deci-
sion of the Court of King’s Bench, in Dr.

Stanger’s

Stanger's case, which, if known or minutely considered by you, might have possibly induced an opinion respecting the integrity of their corporate conduct, far different from what you then so warmly expressed.

In the first place, it will be scarcely denied by any one, in the least acquainted with medicine as a practical art in London, that physicians conceive it of much importance to be fellows of the college. This indeed seems sufficiently proved, both by the eagerness with which admission into the fellowship has been sought by some of our most celebrated physicians, Hunter, Fothergill, and Fordyce, not to mention other and later names, and by the obstinacy with which their endeavours to gain it have been resisted, by those already in possession of the corporation. It will not diminish the force of this argument to assert, that the object in dispute was altogether unworthy of the exertions, to which it gave rise. Men do not always estimate the value of things, either according to the profit they produce, or by the rules which may possibly guide the opinions of superior beings. What more trite, and, at first sight, more just subject of ridicule is there, than the vehement desire which many exhibit, for the possession of a piece of ribbon of a particular colour? Yet
this

this desire exists with persons of the first talents, fortune, and rank in this country :

“ Let school-taught pride difsemble all it can,

“ These little things are great to little man.”

Though it be unnecessary, therefore, to proceed further in proving the value of a fellowship of the college, I shall, notwithstanding, briefly mention some of the advantages, which accrue to physicians from possessing it.

There are various offices, lectureships, and appointments in the college, which are attended with profit, and are filled by fellows alone. The emoluments of these, though not considerable, are still of sufficient magnitude to render them objects of desire to physicians in the first years of their residence in London; and hence, as I have been informed, they are frequently given to the younger fellows, with the view of assisting them during that difficult period.

The chief advantages, however, which a physician enjoys from a fellowship of the college, are in consequence of his being often placed by it, in very conspicuous and honourable situations. Soon after receiving it, he becomes an examiner of the fitness of other physicians to be fellows or licentiates; a visitor of the shops of apothecaries,

apothecaries, for the purpose of inspecting the quality of their medicines; and a commissioner, under an act of the legislature, for licensing houses for the reception of lunatics. By these means, though he may be a very young physician, he nevertheless appears to the world as a man of rank in his profession. Such a circumstance to the greater part of persons must be highly gratifying, without regard to its consequences. But in medicine, the slightest sign of distinction is frequently a source of profit to the possessor; for as men, in general, have not sufficient knowledge or discernment to choose their physicians on the ground of merit, they commonly take those who exhibit marks of public approbation and confidence. A fellowship, therefore, by bestowing such marks, is often greatly conducive to the advancement of the interests of a physician. It is far indeed from always happening, that fellows of the college rise to eminence, as practitioners of medicine; but the fact is undoubted, that they rise to it more frequently and more quickly, than licentiates in every respect equal to themselves, except as to the relation in which they stand to the college.

But it is evident that these, and all other advantages of a fellowship, will be more or less
 amply

amply enjoyed by individuals, according as few or many are entitled to partake of them. Whether any body of men would be able to resist such a temptation to restrain the increase of their number, I know not. It is certain, at least, that the college have not been so, but have often adopted measures for this purpose, which are declared, by persons of the highest authority, to have been contrary to the laws of our country. "Licences," said Lord Mansfield, while delivering a judicial opinion upon the conduct of that corporation, "probably took their rise from that *illegal* bye-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 their charter."

The effect, which was once derived from restraining bye-laws, is now produced by means less odious in appearance, but not less sure in operation. Though a degree of doctor in medicine, from Oxford or Cambridge, has been demanded by the college, almost from its foundation, as a qualification for a fellowship; yet, for a considerable time, it was occasionally dispensed with, and when it was not, physicians, who had graduated elsewhere, could for a small
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sum of money, readily procure such a degree from those universities, by incorporation*. But, towards the end of the last century, laws were passed by our universities, at the desire, it is said, of the college, to prevent in future the incorporation in them of physicians, who had graduated in any place out of England, except Dublin; and since then, the college have never, I believe, admitted any one to an examination for a fellowship, who did not possess an English degree of doctor in medicine. The consequence has been, that the number of members, which in 1677 was sixty-five†, without including twenty *honorary* fellows, a class no longer existing, is now only forty-eight‡, notwithstanding the vast increase, which the capital has in the mean time received, in point both of population and riches. But all surprize at this diminution of the number

* The degrees, which students of Oxford and Cambridge receive from their own universities, are conferred by *creation*; but when a graduate from a different university is admitted in either of them, *ad eundem gradum*, this is called *incorporation*.

† Fifty-three fellows and twelve candidates, who are both, in the language of the college, named *collegæ*. The term *candidate* is used in a very different sense by the college from what is commonly given to it; with them it means a person who has passed all the examinations which are required for a fellowship, but who is not actually in possession of it. I have for this reason very seldom employed it.

‡ Forty-five fellows and three candidates.

of members will cease, when it is known, how greatly that of licentiates has during the same interval been augmented. In 1667, there were only ten persons in that class; while the present college list contains one hundred and five, the far greater part of whom would have been admitted as fellows, if the English universities had not repealed their former laws for granting degrees by incorporation.

The system of admission which has produced these effects, is that which the college, after being repeatedly admonished of its narrowness and injustice by Lord Mansfield, professed to amend, by the two bye-laws already so often spoken of. That they have an interest, however, directly contrary to the pretended object of the new laws, is clear from the tardiness alone with which these were brought forward. Lord Mansfield began in 1767 to censure the old laws of admission, yet the new were not made before 1778*. The succeeding history of one of the latter

* The college, during the trials of Dr. Stanger's case, seemed to have been much ashamed of the dates of these laws. They were not mentioned in Mr. Roberts's affidavit, and when asked for by the judges, the counsel of the college appeared ignorant of them. If the omission had not been by design, they would surely have been inserted in Dr. Gisborne's affidavit in answer to Dr. Stanger's second application; but upon this subject

latter demonstrates the existence of the same interest still more strongly. This at first authorized the introduction, by favour, of two licentiates every year into the college. But it was quickly after enacted, that only one should be annually proposed for introduction; and again, that no proposition of this kind should be made oftener than once in two years. Such are the changes which the *letter* of the law has undergone. If we look to its execution, it may now be regarded as abrogated; since no licentiate has been proposed under it for six years past.

But, though the college have thus shewn, that they possess a strong interest in preventing the increase of their number, from the introduction of licentiates by favour, it is yet easy to prove, that they must have a much more powerful one, in resisting the entrance of persons of that class, through the means of examination. Licentiates made fellows in the former way will naturally adopt the maxims of their patrons, with respect to the management of the corporation; and even

subject he was equally silent with Mr. Roberts. At length, after repeated questions from the judges during the second trial also, it was extracted from Mr. Dampier, that the new laws were made in 1778.

if they should not, they can never be sufficiently numerous to form in it a party of any consequence. On the other hand, licentiates admitted to be fellows of the college, after an examination of their fitness, would be free to act in all its concerns, according to their own views of what was right. They might consequently dispute both the justice and expediency of acknowledging in the graduates of Oxford and Cambridge, any title to be received into the corporation, which does not depend upon their learning and good character; and their own number might in a few years become so great, as to exceed that of all the other resident fellows. Can we now even imagine, that the present fellows of the college, all of them, except five persons who have been admitted through favour, physicians from Oxford and Cambridge, are not generally hostile to a measure, which, if executed, must immediately diminish some of their own advantages, and may hereafter deprive the members of the English universities of the chief rule in a corporation, which has long been regarded by them as their own?

I have thus, my Lord, replied, and I hope satisfactorily, to the question concerning the interest,

terest, which the college have in acting unjustly towards those licentiates, who may apply to them to be examined for fellowships; and, while doing this, I have proved by indubitable testimony, that even before the decision of Dr. Stanger's case, they had not always shaped their conduct by the rules of honour and good faith. It may therefore be thought, that my address to your Lordship ought now to close, since its various objects have been attained. But, as in my opinion, it deserves to be still further considered, whether an accurate knowledge or estimation of some preceding acts of the college might not possibly have produced a doubt in your Lordship's mind, on the propriety of surrendering to them the sole determination of claims, which they have various and manifest temptations to determine unjustly, I shall venture to trespass a little longer upon your Lordship's patience, by offering a few additional observations upon this part of my subject.

The first I shall make is derived from a circumstance in the general conduct of the college, of which your Lordship took notice, when you delivered your opinion upon Dr. Stanger's second application. On that occasion your Lordship said: "By what fatality it is, that almost

most since this charter has been granted, this learned body has somehow or other lived in a course of litigation, I know not; one is rather surpris'd, when one considers, that the several members of this body, including the licentiates, the commonalty of this corporation, are very learned men: and as much as it is not generally the fruits of learning, at least not the best fruits of learning, to get into litigation, one cannot tell how those learned gentlemen have fallen into so much litigation." The fact here mentioned, though highly important, may not to many, however, appear so surpris'ing as it did to your Lordship. Learned occupations, by withholding their followers, for the most part, from the busy paths of life, necessarily exempt them from many occasions of dispute, to which other persons are expos'd; but few are more ready, than literary men, to embrace such occasions of dispute as are presented to them. In whatever regards the fruits of their mental labours, this is universally acknowledged to be true; the title of *genus irritabile*, though more especially given to poets, is found to be applicable, in a greater or less degree, to every description of authors. Some of the malevolent passions, indeed, frequently become in learned men more than ordinarily strong, from want of that restraint upon
their

their excitement which society imposes. Perhaps too, from a well-known law of human nature, their moral feelings may be less correct than those of many other men, in consequence of the great and frequent exercise, which is given to the powers of their understandings. Physicians therefore, as men of learning, have their causes of dissent with each other; as men seeking wealth by their learning, or affectation of learning, they have many more. The great bulk of mankind being unable to judge of the truth of their dogmas, or the propriety of their practices, it is very natural, that a number of them should jointly endeavour to persuade their sovereign, that they are the only fit persons to take care of the health of his subjects; while in truth, the great object of their combination is to establish a monopoly of medical employment in their own favour. This I believe to be the real origin of our College of Physicians, notwithstanding the praises which have been lavished upon its founders. Its charter was granted in the age of monopolies, when men of much higher rank, and greater private respectability than physicians, were eager to obtain them. Some surgeons procured, about the same time, a monopoly of their profession in London; but being less wary than the physicians, or the operations

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of their art being more subject to the examination of the external senses, they were shortly after declared by an act of Parliament, to have abused their trust most grossly. Though the college have not experienced a similar disgrace, the defence of their monopoly has yet involved them in that constant course of litigation, which has so much excited your Lordship's surprize. But had your Lordship advanced a single step further in this subject, it would certainly, I think, have occurred to you, that the members of a body, which for nearly three hundred years had been almost constantly engaged in law-suits, were not very fit persons to be entrusted with the power of deciding on the claims of those, whom it was their interest to depress. The frequent appearance of men in our courts of law, whether as plaintiffs or defendants, is not, I believe, generally held such a proof of their virtue, that they are hence thought capable of exertions of self-denial, to which others of a more retired life are acknowledged to be unequal.

Possibly another source of doubt, respecting the fitness of the college to execute with fidelity so difficult a trust, without the inspection or control of some superior power, would have been furnished to your Lordship, by a comparison

comparison of the circumstances, which precede and attend the admission among them of the two descriptions of men, who are entitled to apply for it. A physician of Oxford or Cambridge, who possesses a desire to enter the corporation, has no obstacle to fear to its completion, from any general prejudice against him in the minds of those who are already members. He has, on the contrary, reason to expect, that he will be received by the body at large with pleasure, both because he comes from one of their own universities, and has completed there the course of study, which they regard as by far the most proper to form a physician, and because his admission will tend to prevent the necessity of their adopting persons of a different education, to render their number sufficient for the customary rotation of corporate offices. Nor can any of the members well entertain a personal dislike to him, as he has scarcely yet begun to contend with them for employment. Under these circumstances he applies to the college, at any time he finds convenient, for an examination of his qualifications, which is immediately granted as a matter of course. The examination is delegated to the president and the four censors, who are all chosen to their offices for only a year, and, to use the language of the college, "are strictly sworn to do justice." It

is divided by them into three parts, each of which is held at one of their separate meetings*, and their decision upon his fitness is seldom or never formed, until he has been subjected to all the parts. Should the decision be in his favour, at the next general meeting of the college he is proposed for admiffion. A ballot is then taken, and if a majority of the votes be in support of the propofal, he becomes a member of the corporation, with the title of *candidate*. The whole of these proceedings, including the original application, are fometimes finished in a week or two, and always in less than three months. After he has been a candidate for twelve months, without further examination, and almost without further ceremony, he is received into the order of fellows. If he has come to London shortly after obtaining a doctor's degree, his admiffion into the fellowship almost always takes place, either before or about the thirtieth year of his age.

I turn now, my Lord, to the licentiate who is engaged in a fimilar attempt. Though the col-

* I know that the president and censors may hold the examination, if they please, at the general meetings of the college; but no instance of their doing so has, I believe, occurred for many years, and if they were to hold it there, none except themselves would have a title to determine on the fitness of the person examined,

lege, from deference to the authority of Lord Mansfield, have apparently ceased to view an English degree, as an indispensable part of the title of a physician to be examined for a fellowship, the prejudices* and interests, which dictated their

* Some notion may be formed of the extent of these prejudices, from the undermentioned circumstances in the conduct of Sir Lucas Pepys, as physician general to the army. I possess indeed a still more flagrant example of their influence; but I prefer the present, as being of a public nature.

Suspensions having arisen in the beginning of the present war, that the dreadful mortality of our troops in the West Indies, had, in part at least, been owing to their want of proper medical aid, it necessarily became an object of great national concern, that the immense armament, which was preparing, in 1795, to be sent to those countries under the command of Sir Ralph Abercrombie, should be provided with able physicians. In this state of things, Dr. William Wright of Edinburgh was mentioned to a person in power, as being well acquainted with the diseases of the West Indies; in consequence of which, a gentleman, connected with administration, authorized a common friend to make him the offer of being a physician to the armament. Having signified his willingness to accept this appointment, he was desired to remain in Edinburgh, until his services should be required.

It is proper to say somewhat here concerning the fitness of Dr. Wright, for the situation to which he was designed. *He was a fellow of the College of Physicians of Edinburgh*; and had formerly served his Majesty seventeen years, chiefly in the West Indies. He had, besides, practised medicine in Jamaica, while unconnected with the army, for thirteen years, during great part of which time he was Physician General to the militia of the island. His talents had not, in the mean while, been confined to the cultivation of the practical part of his profession. Having included natural history among the objects of his study,

their former laws of admiffion, ftill exift with undiminished force. Whenever, therefore, a licentiate applies for an examination, a conteft

in ftudy, he had, during his refidence in Jamaica, explored almoft the whole of it, in his attempts to extend the limits of that fcience, and had in confequence made many important difcoveries of plants, fome of which had been publifhed in the Philofophical Tranfactions of London and Edinburgh, and various other works. By thefe means, he had become well known to many of the learned in different parts of the world, and had been admitted a member of the Royal Societies of London and Edinburgh, and feveral other bodies of literary men. In fhort, if private worth, patient induftry, diverfified knowledge, great general fkill in medicine, and long experience of thofe difeafes in particular, which attack Europeans in the Weft Indies, were qualities to be defired in a phyfician to his Majefty's forces there, the fitnefs of Dr. Wright to be one was moft eminent.

To return to my narrative; in September Dr. Wright came to London, expecting to receive the promifed appointment immediately upon his arrival; but he was told at the Army Medical Board, that, by a rule of Sir Lucas Pepys, it could not be given to him, *unlefs he had a licence to praetife medicine from the College of Phyficians of London.* He declared his readinefs to fubmit to the forms neceffary for obtaining one; but thefe could not be completed before the end of December, and the armament it was intended he fhould accompany was almoft upon the point of failing. Sir Lucas Pepys was therefore ftrongly urged by feveral perfons to fufpend his rule; among others, by two of his own friends, who told him, that Dr. Wright would certainly be appointed, whether he recommended him or not. His anfwer was, *he would never recommend Dr. Wright, and was fure the King would not fign his commiffion.* But it was quickly feen, that he had grofsly overrated his confequence. It was indeed not to be fupposed, that a rule of a court phyfician, whofe connection with the army had commenced

in reality arises between the graduates of Oxford and Cambridge, and those of the Scotch and foreign universities. But who are appointed

menced only a year or two before, by his being placed at once at the head of its medical department, would long prevent the execution of a measure, deemed by the ablest judges highly beneficial to the military service of our country. In October, by the influence chiefly of Sir Ralph Abercrombie, Dr. Wright was appointed a physician to the armament, and shortly after went with it to the West Indies.

The only possible ground, upon which Sir Lucas Pepys could consistently with his duty to the public have formed his rule, appears to be, that he regarded an examination of medical ability by men whom he knew, and upon whose report he could therefore implicitly rely, as a necessary test of the fitness of those, who were to be entrusted with the important charge of watching over the health of his Majesty's troops. But if this be supposed the principle of his rule, what must be said of his recommending, notwithstanding, several persons to be physicians to the army, who had never undergone such an examination? Perhaps they were evidently so superior in ability to Dr. Wright, as to justify even a breach of principle in their favour:—No; they were young men, who had not yet completed their academical education, and who probably had never had the entire management of a dangerous disease committed to their care. They were, however, *Batchelors of Physic from Cambridge*.

The degree of Batchelor of Physic is now given at Oxford, the *eighth* year after matriculation; about thirty years ago it was not given till the *tenth*, but even then, so little knowledge of medicine was thought requisite for it, that he who received it was only said to be admitted, *to read the aphorisms of Hippocrates*. At Cambridge, the same degree may be obtained as soon as the *fifth* year after entrance is completed. The candidate first *keeps an act*; which consists in
defending

ed to decide it? graduates of Oxford and Cambridge. The members of the college being thus both parties and judges in the cause, it will doubtless

defending two questions, one chosen by himself, the other by the professor of medicine; but the latter is given when asked for, however long this may be before the defence is to be made. The statutes of the university require also, that the candidate should *oppose* another candidate for a degree in Physic; but this is now dispensed with *for twenty shillings*. These ceremonies then have not the least resemblance to *an examination*; and no person, I believe, is ever rejected at them for want of medical learning. It is on the contrary, well known, that students at Cambridge, to save time, often take the degree of Bachelor of Medicine, when they have scarcely entered upon the study of their intended profession, meaning no doubt to apply to it with great diligence, during the *five* years which must afterwards pass away, before they can receive a *doctor's* degree. Yet, in the sight of Sir Lucas Pepys, a Cambridge bachelor of Physic appears fit, without further trial, to be a physician to his Majesty's forces in the West Indies, while a man, so gifted and adorned as Dr. Wright, appears unfit, and is therefore sent by him to be examined by the College of Physicians of London! Such are the grounds upon which the physicians of Scotch and foreign universities must build their expectations of justice from the college, when they apply for admission into the fellowship. If it be said, that no conclusion from the conduct of an individual ought to be applied to the whole body; my answer is, that the conduct of that individual must, in its principle at least, be approved by the body at large, since he is marked by their opinion to succeed Dr. Gisborne, in the presidency of the corporation.

It may be gratifying to many to know, that by his Majesty's command, orders were last year issued from the War Office, to regulate, in future, the appointment of physicians to the army; and that, in consequence, it is now no longer necessary that they

doubtless be thought, that from respect to their own characters, they have attempted by every means in their power to lessen the invidiousness, and even danger of their situation. Have they truly done so? No, no, my Lord. They have, on the contrary, invented a mode of trial, which places their adversaries in the most difficult and humiliating circumstances, and lays themselves open to the influence of some of the basest passions of the human mind.

In the first place, before a licentiate is admissible to the examination he desires, it is demanded by the college that he be of seven years standing, and upwards of thirty-six years of age. But a rivalship for seven years with his judges, for employment, may have excited considerable animosity against him in the minds of some of

they have licenses from the London college, or degrees from the English universities. Those, who formerly nominated physicians to the land forces, were allowed to form their own rules, and a like indulgence was for some years enjoyed by Sir Lucas Pepys. When this was taken away, some persons thought, that after such a disgrace, as they termed it, he would feel himself obliged as a man of spirit, to resign his office, as he could in no other way demonstrate the purity, if not the wisdom, of his intentions in framing the rules which had been annulled. Fortunately, however, he has been influenced by no such extravagant notions of personal dignity; but from unbounded zeal for his sovereign's glory, and a most tender regard for the welfare of our gallant soldiers, in every part of the world, still remains Physician General to the army.

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them; and the disgrace of being rejected at an examination must prove highly injurious, not only to the reputation, but to the fortune also of a physician, who has passed his thirty-sixth year. Such a disgrace may even more readily befall him than a younger man. For many things which he formerly learned, and the knowledge of which is required at the college examinations, are now unknown to him, from never having experienced their use in the exercise of his profession; and his present occupations may afford little leisure for regaining them.

But secondly, the application for his examination can be made upon only one day in the year, and it must not even then come directly from himself; he must find some fellow of the college to make it for him. As the number of resident fellows, however, is under thirty, it may surely happen, that they shall all agree to regard it as a point of honour not to propose a licentiate for examination.

Let it now be granted, that a fellow has proposed him; in this case your Lordship, during the trial of Dr. Stanger's cause, seemed to think, from your acquaintance with the pure and honourable conduct of the benchers of the inns of court in similar situations, that admission into
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the college must follow of course. But, in truth, he has only gained a title to have a vote taken by the secret method of ballot at the present meeting of the corporation, whether his qualifications for a fellowship shall hereafter be examined. If a bare majority be against his being examined, the proceedings are stopped, and cannot be begun again for a twelvemonth. I need not, however, point out to your Lordship, how much more likely it is, that a majority of votes, secretly taken, should appear against a licentiate *before* an examination, than that an English graduate should be rejected by a similar mode of voting, *after* he has been examined and approved by the president and censors, this being the only time at which the latter is subjected to a general ballot, before admission into the college.

The examination, which may have been allowed to the licentiate in consequence of the ballot, is of the same kind as that which an English graduate undergoes; but the first part of it is not held till three months after the grant, and the same space of time is interposed between its first and second parts, and between the second and third. In this way, if he is not in the mean time rejected, he is to be tortured for nine months with doubt and anxiety respecting its event. All its parts too are held, not at the

private meetings of the president and censors, as in the case of an English graduate, but at the public meetings of the corporation; and should he, from natural timidity, or from that embarrassment which every man must feel, upon personally submitting his talents to the scrutiny of those, whom he believes to be unfriendly to his views, appear ignorant of any of the subjects proposed, no opportunity is allowed to him, as to an English graduate, of compensating such a seeming deficiency by any after-exhibition of knowledge. For the majority of a general meeting must declare their approbation of the first part of his examination, before he can be admitted to the second; and of the second, before he can be admitted to the third. If every part of his examination has been approved, and he has thus obtained four majorities of general meetings of the corporation in his favour, all of them declared by ballot, three months afterwards, that is, twelve months after being proposed for examination, he may be proposed at another general meeting for admiffion, and if the majority is found by a fifth ballot to consent, he is then to be received into the college as a fellow.

These conditions of a licentiate's entry into the college are contained, I confess, in a by-law,

law, which your Lordship pronounced to be, not only free from blemish, but possessed of such virtue, as to render found an older bye-law, emphatically declared by you to have had in it *the seed of death*, before it received this new infusion of health. I am much inclined, however, by what has been already mentioned, to suppose, that your Lordship's opinion was derived from a very cursory view of the subject to which it relates, and I embrace this conclusion more strongly, when I consider a further point of difference between the bye-law in question, and that for the admission of physicians from Oxford and Cambridge, the simplest notice of which must excite disgust and indignation in every bosom, the least animated by a love of justice.

The persons, who decide on the examination of an English graduate, are those to whom it is committed, the president and censors. The examination of a licentiate is also committed to the president and censors, but not its decision. When this is given, they vote as individuals only, in a meeting consisting frequently, I believe commonly, of more than twenty members, none of whom, except themselves, are under any other than the ordinary obligations of men to good conduct, or are even required to be present at the examination, whose event they are to deter-

mine. But if these obligations have been esteemed insufficient to ensure justice from English graduates to one of their own class, and it has therefore been thought necessary to delegate the decision upon his merits to five persons, who are solemnly sworn to the faithful discharge of their duty, what notion are we to entertain of the design of the college in committing the decision upon the merits of a licentiate to the *discretion of a general meeting*? We are taught, my Lord, by the flightest experience in the affairs of the world, to seek for the motives of men in their actions, when these are at variance with their words. No credit was ever given by the Romans to the declarations of clemency, with which Domitian used to preface his cruelties, or by ourselves to the robbers and murderers of France, when they pretended, that their conduct towards foreign nations arose from a disinterested desire to give liberty and happiness to mankind. When, therefore, I observe, that the College of Physicians have permitted themselves to decide upon the examinations of licentiates, without the restraint of an oath, at the same time that they strictly swear those to do justice, who are to decide upon the examinations of the graduates of Oxford and Cambridge, I hold myself fully authorized to infer, notwithstanding any protestation to the contrary, that their design in establishing

lishing this difference was, to allow room in the former set of examinations, if any such should ever take place, for the operation of principles, the most remote that can be conceived from honour and good faith.

It will perhaps be expected, that I should illustrate what I have said upon the theory of this bye-law, by an appeal to the facts which have relation to it. But scarcely any such exist. During the nineteen years which intervened between the framing of the law, and the decision of the Court of King's Bench in the case of Dr. Stanger, the licentiates had been so intimidated both by its intrinsic difficulties, and by the threats of fellows of the college, that no person who applied under it should ever obtain what he desired, that only one of them, Dr. James Sims, had endeavoured to profit by it. He was regularly proposed for examination by Dr. Burges, whose motion, however, the college refused even to consider, on the ground that no one had seconded it. With what justice or decency this was done, I learn from your Lordship. "He is not to wait to be seconded," your Lordship said, in Dr. Stanger's case, while speaking of a licentiate in the situation of Dr. Sims, "the bye-law does not require that." These circumstances respecting Dr. Sims were mentioned to
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the court by Mr. Christian, one of Dr. Stanger's counsel, but, I suppose, in a manner too unimpressive to fix them in your Lordship's mind. For had they been present to it, when your decision was given, you would necessarily have entertained some suspicion, that they, who had openly violated one part of a law, were not to be restrained by honour and good faith from violating any other part of it, when their conduct should be screened by a ballot.

The last act of the college, to which I shall solicit your Lordship's attention, seems alone sufficient to have demonstrated their total unfitness to decide between themselves and other men, when the only guard against their doing wrong should consist in their feelings of what is right. Some of the circumstances, indeed, which I am going to relate, occurred in your Lordship's presence, in the course of Dr. Stanger's cause; and I am not ignorant, that you then considered them as unconnected with any *serious* intention, on the part of the college. Admitting, however, for a moment, this to have been the case, surely the system of morality, which permits its followers to accuse a gentleman, by way of joke, of a most disgraceful crime before the Lord Chief Justice of England, ought to have no place in the sanctuary of honour and good faith.

faith. But not to dwell longer upon this argument, I shall, I think, soon convince your Lordship, that the charge to which I have alluded was deliberately formed, and seriously urged by the college, with the horrible design of destroying the character of an innocent person, because he was bold enough to oppose their injustice.

When a physician is admitted by the college into the class of licentiates, he gives his promise or faith, that he will observe their statutes, or readily pay the fines which shall be imposed upon him for disobedience*. Sir William Blackstone, who, I believe, is not generally reckoned a loose moralist, holds it established, that, when a penalty is annexed to the non-compliance with laws, “ which enjoin only *positive* duties, and forbid only such things as are not *mala in se*, but *mala prohibita* merely, without any intermixture of moral guilt—the alternative is offered to every man, ‘ either abstain from this, or submit to such a penalty;’ and [that] his conscience will be clear, whichever side of the alternative

* The president says to him—*dabis fidem, te observaturum statuta collegii, aut multas tibi contra facienti irrogandas promptè persolutorum, omniaque in arte medica pro viribus facturum in honorem collegii, et reipublicæ utilitatem*—to which he assents.

he thinks proper to embrace." Possibly some doubt may be entertained of the justness of this doctrine when applied to laws, which affect all persons equally, and are made by those who are to be controlled by them. But, however this may be, it is at least certain, that no doubt can exist, whether a licentiate is entitled to take either side he pleases of the alternative, which is offered to him by the college themselves, not by implication, but by the most direct and explicit expression, with respect to the observance of statutes, made always without his consent, and sometimes with the avowed design of placing him beneath men, whom the laws of their common country declare to be no more than his equals. He will even merit no blame from them, as law-givers, by disobeying such of their statutes as forbid what is evil in itself, provided he immediately pays the fines which are demanded from him. The blame, which he here incurs, depends upon his having broken the laws of some far higher power, those of God or his country. But I fear I render this subject confused, by holding it up too long to view. Luminous objects are best discerned by a single glance of the eye; if we suffer our sight to dwell upon them, their very brightness soon causes them to appear indistinct.

The degree of obedience, which is due by a licentiate to the laws of the college, being then so evident, no one can imagine, that it was ever unknown to the many learned and well-informed men, who are members of that body. The intention, therefore, of those men, in acting even for the shortest time, as if it were unknown to them, could not have been *honourable*; but as they persisted in this conduct for nearly three years, they must necessarily have been *serious*. Shortness of duration is essential to every kind of joke, whether verbal or practical.

About the middle of 1794, a rumour became prevalent among medical men in London, that the college viewed, as a breach of faith to them, the attempt of certain licentiates to render the corporate distinctions of their profession accessible to every physician of sound morals and learning; but it was thought by those licentiates too absurd to be credited. "We know," said they, "of no statute of the college, by which we are forbidden to endeavour to gain admission into it. If there be any such, let it be pointed out, and let the fine be demanded, which is annexed to our disobedience. Were indeed such a statute to exist, it would be not only tyrannical, but contrary to the laws of our country, and therefore without force. At all events, to desire the removal of a grievance can never be justly held

a breach of our promise to the college. For to what purpose has the Court of King's Bench been charged with the inspection and controul of corporations, if applications to it against the oppression of bye-laws can, by other bye-laws, be legally declared violations of faith in those who seek for relief?" But they soon discovered their mistake in supposing that the rumour must be false, because it seemed to them absurd; for in October of the same year, the accusation which it contained was publicly brought against them by Dr. John Latham, one of the fellows of the college. "We are attacked*," said Dr. Latham in his Harveian oration, "by ferocious, daring, and obstinate enemies, regardless of the faith which they have pledged for the observance of our statutes.—I might complain at greater length of the injury which they have rashly done us, but *liberality* forbids me to say more."

Flagitious conduct, my Lord, ought, in my poor opinion, never to pass uncalled by its

* *Hofis—aggreddtur, ferox, audax, pertinax, posthabita fide de observandis [collegii] statutis.—Verum enimvero tametsi mihi esset occasio querendi prolixius de facta nobis temere injuria, vetat amplius differere liberalitas.*" These quotations are from the printed copy. The author of this letter did not hear Dr. Latham deliver his oration, but from the reports of others he has reason to believe, that the whole of the abuse, which was then thrown upon the associated licentiates, has not been printed.

proper name. If vice be not termed vice, if baseness and dishonour be suffered to come forth into the world, without the mark of infamy, we remove one of the most powerful checks upon the evil inclinations of man, and indirectly discourage the practice of virtue. If, therefore, the titles of reproach used by Dr. Latham had been merited, it would have been gallant, it would have been praise-worthy in him to have bestowed them. But to whom were they applied? To fourteen persons of his own profession, all of whom, except one, were at least equal to himself in every quality and accomplishment, which physicians are required to possess. And upon what occasion? Because these men had, in a temperate, and even respectful address to the college, set forth their claims to admission into the fellowship, and had requested to know, whether they would be allowed to prove their fitness for what they desired, by undergoing the examinations which are prescribed for the graduates of Oxford and Cambridge. This was the only measure they had hitherto taken for obtaining their object. Your Lordship will now assuredly conceive, that such expressions were heard with disgust by the other members of the college. I firmly believe, my Lord, that they were heard with great disgust by some of its members. But the body at large hastened to adopt them, by

foliciting their author to print his oration. Happy, however, would it have been for Dr. Latham, if their zeal to injure the moral characters of those, whom they denominated their enemies, had not blinded them to the danger, to which they were about to expose the literary reputation of one of their dearest friends; if they had not by their own praises so fanned his desire for general applause, as to occasion his giving a work to the world, which sets at defiance every principle of taste in composition, and exhibits more than a school-boy's ignorance of the common language of the learned.

The next public indication of the plan of the college to defame the associated licentiates, (for I purposely avoid mentioning any private proof of it) was furnished in April 1796, by Sir George Baker's swearing before your Lordship, that Dr. Stanger, upon being made a licentiate, had given his faith, or promise, that he would obey their statutes. It now became clearly evident to those, who had watched the conduct of the college, that they meant to urge this, among other arguments against the claim of that gentleman, that he was unworthy of admission into their body, from having, by his present application to the court, forfeited all title to confidence in his future declarations. No notice, indeed,

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was taken of this part of Sir George Baker's affidavit, in the pleadings which immediately followed; but Mr. Erskine was the only one of their counsel, who completed his speech upon that occasion, and there are strong grounds for concluding, (with which, however, I shall not trouble your Lordship,) that his omitting to bring it forward was highly disagreeable to his employers.

In January, 1797, the circumstance of Dr. Stanger's having given his faith to observe the statutes of the college was a second time sworn to by their president, and in the trial which took place in May, Mr. Erskine did not again neglect to touch upon it. But the whole of this part of his speech seemed to denote a struggle between the ingenuous feelings of a gentleman, and the desire of an advocate to gratify his clients. "I do not mean to say any thing offensive to Dr. Stanger; he will understand that I am using the words of Lord Mansfield.—I have done justice to this gentleman, who, I have no doubt, is a learned man, and a person of honour and character in his profession." These were expressions employed by Mr. Erskine, while speaking of the engagement under consideration. But as the only possible view of the college, in producing it to the court, must have been to pretend that it had been violated, to call Dr.

Stanger

Stanger “ a person of honour ” was directly in opposition to their design, and plainly demonstrated the aversion of their principal advocate to lend his aid towards its completion.

The two advocates of the college, who spoke next, were silent upon the subject of Dr. Stanger’s engagement. But their deficiency on this point was fully supplied by the youngest counsel, Mr. Warren. He was the son of one of his employers, and consequently possessed the most ample opportunities of being acquainted with their real motives and views, and as he had evidently been retained in the present cause, for reasons unconnected with his general fame, he must have been strongly disposed to requite the favour he had received, by doing what he knew would be most agreeable to them. *He* therefore did not inform the court, as Mr. Erskine had done, that he was not instructed to make any insinuation against the character of Dr. Stanger, but boldly and explicitly charged that gentleman, with “ a violation of something, less formal, but not less sacred, than an oath.” The court now exerted their authority, and prevented his proceeding further in this strain *. But, my Lord, had

* My authority for saying, that Mr. Warren was interrupted in this part of his speech, is the following conversation between Lord Kenyon and Mr. Christian, one of Dr. Stanger’s counsel, which

had the dagger, which he drew from beneath a robe, intended to give dignity to the asserter of innocence and right, been even suffered to reach its destined object with all the force that his arm could impart, it would have still struck harmless upon the armour of honourable repu-

which took place two days after, while the latter was replying to the arguments against the issuing of the mandamus.

Mr. Christian. "An argument was pressed the other day which I was sorry to hear, because it might wound the feelings of a very honourable mind; it was said that Dr. Stanger had pledged his faith to observe the statutes."

Lord Kenyon. "That was put an end to immediately as it was mentioned."

Mr. Christian. "It seemed to be pressed and relied upon as a serious argument."

Lord Kenyon. "Certainly not."

I must, however, confess, that I see no mark of any such interruption, in Mr. Gurney's report of Mr. Warren's speech. I presume, therefore, that the Court's disapprobation of the shameful attack upon Dr. Stanger's character must have been expressed by some gesture or look from the Bench, which, though sufficiently intelligible to Mr. Warren, might easily pass unobserved by a writer intent upon his papers. How far his Lordship himself thought the honour of that physician affected by his application to the court, may be known from the following passage in his speech at the close of the trial. "It is fit that I should put the mind of Dr. Stanger, in case it is in an uneasy situation, in a perfect state of repose with regard to one thing. Undoubtedly his moral character is not at all tainted by the application that is now made. I have not the honour of knowing him; I have heard nothing but to his advantage when I have heard him spoken of, and I dare say all the eulogy, which his warmest friends could bestow upon him, his character both as a moral and professional man deserves."

tation, to the confusion of every hope conceived by the cold-blooded, corporate cruelty, which had urged him to the deed.

I cannot forbear making one observation more upon this atrocious attempt of the college. Though a licentiate is obliged to give his faith, that he will observe their statutes, he is never furnished with any opportunity of learning what they are. The last printed edition of them is dated in 1765, and is now so scarce, that many, I believe I may justly say most, of the licentiates have never seen a copy of it. The code too, since 1765, has undergone very considerable alterations, none of which, as far as I know, have ever been communicated to the licentiates. In 1796, Dr. Stanger swore before the Court of King's Bench, that to the best of his knowledge and belief, no person could be admitted into the order of candidates, who did not enjoy, by birth, all the privileges of a British subject; and yet it was afterwards declared by the counsel of the college, that the statute requiring this condition had been repealed upwards of twenty years. Dr. Stanger swore also, that he had shortly before applied to the president and register of the college, for some information respecting their laws, but that both those officers had refused to give it to him. Caligula, among other acts of
tyranny

tyranny, caused several of his edicts to be written in very small letters, and afterwards fixed in situations of difficult access, in order that those who were to be affected by them might offend through ignorance. His ultimate object, however, was only to procure the pecuniary fines which were imposed upon the want of obedience; when these were obtained, he readily acquitted the transgressors of all further blame. Men calling themselves Britons likewise conceal their laws, but, with a refinement in cruelty beyond the conception even of a Roman tyrant, declare persons to be infamous, who do not observe them.

I have now, my Lord, finished my journey through the dreary waste, which I undertook to explore. In my progress, no spot of verdure has been found, upon which the wearied eye might repose, and scarcely an object of terror has occurred, to break the flat uniformity of the scene, one wide expanse of pityful fraud, and paltry chicanery. My labour has been inglorious; but should it furnish your Lordship with a more accurate knowledge of the ground I have passed over, than that which you formerly possessed, I shall esteem it most amply repaid.

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That the conduct which I have described should have been exhibited by men, many, perhaps all, of whom discharge with propriety the duties of their private stations in society, is one of those facts relative to the human character, which, however difficult to be explained, are still unquestionably true. There is a certain gallantry in doing a wrong thing for the sake of another, which in some degree lessens the deformity of the action. The odiousness of such an action is still further diminished, should it tend to the benefit of many. If it promises to promote the interests or happiness of a whole nation, its name, if not its nature, is often changed; and what in private life would have been denominated vicious, may now be regarded not only as pardonable, but even as meritorious. Besides; the members of corporations commonly imagine, that they have a right to do every thing which has been done by their predecessors, notwithstanding the circumstances may have long ceased to exist, under which their antient rules were established. Again; the actions of most persons, when they are not under the dread of general laws, seem to be chiefly regulated by the praise and blame of those by whom they are immediately surrounded. The peasantry upon our coasts, who in the ordinary situations of life do

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not appear to be more depraved than other men, have often been known to commit, in bodies, the most detestable cruelties upon ship-wrecked mariners; and the vilest malefactors often meet death at the gallows with the greatest firmness, if strengthened by the presence and approbation of their former companions. If to such considerations we add, that no one is personally answerable for the acts of a corporation, and that these often proceed from a bare majority, or a number even less than a majority of its members, we may possibly obtain from the whole an explanation, why the public conduct of the College of Physicians is frequently so very different from what any one might expect, who has looked only to the private characters of some of those who compose it. But whatever opinion may be formed concerning the grounds of explanation which I have offered, the fact, to which they are meant to apply, still rests upon the basis of testimony, and is laterally supported by innumerable other facts of the same kind. "All men," said an author, whose wisdom and eloquence have produced a change in the state of human affairs scarcely inferior to any, that has ever been effected by the arms of a conqueror, but who most unfortunately does not live to witness the gratitude of the world, for his noble, energetic,

getic, and invigorating exhortations to resistance against its common and most dangerous enemy, when almost every one was benumbed by despair, and fought only to prolong a miserable existence by base submission; "all men," said Mr. Burke, "possessed of an uncontrolled discretionary power, leading to the aggrandizement and profit of their own body, have always abused it; and I see no particular sanctity in our own times, that it is at all likely, by a miraculous operation, to over-rule the course of nature." I have thought proper to add thus much, to free myself from the suspicion of being actuated, in what I have written, by private resentments against individual members of the college. If such feelings had ever been produced in me, it would have become my duty, and I trust I should have had strength to perform it, either to stifle them as unworthy of life, or to make known their existence, in a more direct way than the present, to those who had given them birth.

A more difficult task, my Lord, remains for me to perform—that of again apologising to you for this letter. When I began it, my only view was to acquaint your Lordship with the event of an application to the College of Physicians, which had been occasioned by your advice.

advice. But, after I had proceeded some way in accomplishing this design, I thought it might be both curious and useful to shew, that their rejection of the application was not inconsistent, either with the principles which it might have been supposed would influence a body of physicians in their situation, or with the actual tenour of their conduct, prior to the decision of the Court of King's Bench in the case of Dr. Stanger. I saw, indeed, that such an attempt would be an indirect attack upon the propriety of that decision, not as connected with the intentions of those who gave it; the honour, and integrity, and uprightness of English judges, like axioms in science, are always beyond doubt; but as far as it was founded in considerations, the strength, or weakness of which many persons had better opportunities of knowing than your Lordship or brethren. I imagined, therefore, that in making the attempt, I should only act similarly to one, who applies to a court of justice for a new trial of his cause, in consequence of obtaining new evidence to support it, or who appeals from the jurisdiction of one court to that of another; and hence I concluded with some confidence, that the *plan* of my letter would be regarded by your Lordship as blameless. But now that it is finished, I greatly fear, that the *execution* will not be esteemed altogether so; that,

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on the contrary, the liberties of expression in which I have sometimes indulged may appear to your Lordship, if indeed you should ever bestow a moment's thought upon the subject, as not a little reprehensible.

The plainness and freedom of speech, my Lord, which so remarkably distinguish Englishmen, have always seemed to me, not only to be essentially connected with the existence of their thrice happy and unparalleled form of government, but even to give rise, in great measure, to some of their characteristic virtues; among others, to their humanity. I mean not the humanity which is dictated by policy, or that which originates in a morbid sensibility incapable of bearing the sight of distress; but the humanity which is so firmly ingrafted upon the wild stock of our populace, that the greatest storms cannot tear it away; the humanity which withholds our mobs, in their most guilty excesses, and while maddened by strong liquors, from the spilling of blood. Hatred and revenge spring up in concealment, and must be nourished by long and painful meditation upon injuries received, before they can attain any vigour. But Englishmen, by loudly and fearlessly declaring their wrongs as soon as they feel themselves aggrieved, prevent the very beginnings of those

baleful passions, and thus preserve their hearts always in a condition to obey the great command of their Maker, to venerate his image in man. Our climate, my Lord, may be rude and boisterous, but still it is free from the hurricanes, which desolate countries possessing skies, for the most part, calm and serene. Under the influence of these opinions, I have long been accustomed to give free expression to my sentiments upon the conduct of other men, and experience of the benefit hence derived to the health of my mind has contributed to establish the practice. If, therefore, I should be regarded by your Lordship as having employed too great liberty of speech in this address, I humbly request that you will ascribe my fault, either to error of principle, or inveteracy of habit, but in no degree to any deficiency of respect for your high station and character.

I retire at length, my Lord, from your presence, and at the same time relinquish my struggle with the college of Physicians. I consider myself now as a veteran in the contest, and therefore as entitled to repose ;

Speſtatum ſatis, et jam donatum rude.

To thoſe, however, who ſtill combat on the ſide which I have endeavoured to ſupport, I venture

venture to address myself, though without the
smallest pretension to be a leader of men, yet in
the language of one,

μήπω τι μεθίετε θέριδος ἀλικῆς
Οὐ γὰρ ἐπὶ ψεύδεσσι πατήρ Ζεὺς ἔσσειτ' ἀρωγός.

I have the honour to be,

My Lord,

Your Lordship's most obedient,

And most humble Servant,

WILLIAM CHARLES WELLS.

London,
July 1, 1799.



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