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OBSERVATIONS

ON

MEDICAL REFORM.

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OF OXFORD.



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OBSERVATIONS

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MEDICAL REFORM.

THOUGH the cause of reform in general has probably been more injured by its professed friends than by its opponents, yet it is nevertheless true, and many national as well as corporate statutes acknowledge and act upon the principle, that "Genuine Reform is genuine Conservatism." And, believing that that principle has been kept in view in the following observations, I have only to express a hope, that, should any position appear to militate against it, the fault will not be considered intentional.

The author moreover hopes that his loyalty to some of those institutions of which he has the honour of being a member, and which are partially implicated in the present question, will remain unimpeached for the future, as he trusts it has ever been heretofore.

To his connexion with the College of Physicians, he has been indebted for many marks of attention which have been paid him on the ground of that connexion : and he feels assured, that, in adverting to certain legal proceedings instituted many years since against the College, he is doing nothing unworthy of that connexion ; inasmuch as an account of those proceedings has been repeatedly published during the last fifty years ; and, more especially, because the College, by a spontaneous act, has removed the ground on which those proceedings were instituted.

To his connexion with the University of Oxford, he is still more indebted for many marks of attention, evidently and naturally elicited by the consideration of that connexion—especially with reference to that memorable occasion, when, at a very numerous meeting of members of the medical profession from various parts of the kingdom, held in the Radcliffe Library in the year 1835, the rare honour of the degree of Doctor in Medicine by diploma, was conferred by the University on Dr. Abercrombie and Dr. Prichard. In common with his medical brethren, he is grateful for the honour thus conferred on those highly talented and accomplished physicians : and still more is he grateful to the University for having, within the last few years, reformed the statutes relating to medical examinations so effectually, as to remove the objections which were previously, with justice, made to them.

In order to comprehend the true character of that strong desire of Medical Reform, which is at present very extensively diffused among the members of the medical profession in this kingdom, it is necessary to be acquainted, to a certain extent, with the history of the College of Physicians, of London.

It appears that, at the commencement of the reign of king Henry VIII., the practice of medicine and surgery were, throughout England, in a "very vague and uncertain state:" and there was not at that time any controlling power by which empiricism and imposture might be arrested. Wherefore, in the third year of that reign, an act was passed, ordaining that no person should practise as a physician or surgeon in London, or within seven miles of it, unless first examined, approved, and admitted by the bishop of London, or by the dean of St. Paul's, aided by four doctors of physic, and by other persons expert in the faculty of surgery. And that out of London and its precinct of seven miles, no person should practise as a physician or surgeon, unless first examined, &c. by the bishop of the diocese, or his vicar-general, aided by persons expert in the said faculties of physic and surgery. It was at the same time ordained that nothing in this act was to be prejudicial to the Universities of Cambridge or Oxford; or to any privileges granted to them.

About this period (A. D. 1510—1520) almost all the physicians of London were graduates of some of the Italian universities, which were

then the only efficient schools of medicine in Europe ; and not a few of these physicians were foreigners.

Among the native English physicians of this period was Linacre, a name as well known in classical literature as in medicine ; who, having quitted his residence at All Souls' College, Oxford, of which he was a fellow, proceeded to Italy for the purpose of studying medicine, and graduated there. He thence returned to England ; and being subsequently appointed physician to king Henry VIII., he prevailed with him to found a College in London, which should regulate the practice of medicine throughout England : and this College was accordingly founded in the tenth year of that king's reign (A. D. 1518).

In the act of foundation of the College are these words : "Joanni Chambre, Thomæ Linacre, "Ferdinando de Victoria, &c. Medicis, concessimus, quod ipsi omnesque homines ejusdem "facultatis, de et in civitate prædicta (Londino), "sint, in re et nomine, unum corpus et communitas perpetua, sive Collegium perpetuum." And it is important to observe that certain privileges were given to the members of this College ; exemptions for instance from serving on juries, &c. ; and that the words "omnesque homines "ejusdem facultatis," were understood as applicable to all who had graduated in that faculty in any university ; or who had been approved by the bishop of London.

In 1522 the privileges and authority of the College were enlarged ; and it was ordained

that the licensing power of the provincial bishops should cease, and that in future no person in the dioceses out of London should practise physic until he had been examined and approved by the College, "except he be a graduate of Oxford or Cambridge, which hath accomplished all things for his form without any grace." But within London and its precinct of seven miles, not even Cambridge and Oxford graduates could legally practise, unless licensed by the College: and, in the reign of king James I., Dr. Bonham of Cambridge was imprisoned by the College for practising in London without the due license.

The acts of Henry VIII. were confirmed in the first year of queen Mary, 1553; and it appears from the terms of the acts of Henry and Mary, and of the charters of James I. and Charles II., that all who had been examined and approved by the College, were "collegæ" or "socii" of the College; and that all such "collegæ" or "socii" were considered by those acts as being on an equality one with another, with the temporary exception of those who held certain offices in the College, to which offices however all the members were eligible.

The College, having the privilege of making by-laws, by degrees introduced distinctions among its members; admitting some applicants as fellows, and eligible to the offices—admitting others under the name of licentiates, with powers of practising medicine equally extensive as those of the fellows; but ineligible to college offices, as not being considered fellows.

The term "licentiate" appears to have been first used about the year 1555; in which year the College list divides its members into "fellows, " candidates, and licentiates;" but at this early period the term "licentiate" did not, as afterwards, comprehend those who were admitted to practise as generally and as extensively as the fellows themselves; but those only, who, not being deemed competent to general practice, were thought capable of practice in particular branches of medicine, as aurists, oculists, &c. At that period the only distinction within the College was of "fellows and candidates"—the state of candidates being simply that of probation, immediately to the examination and admission to the fellowship.

The term "licentiate" has now for a long period been applied to those members of the College, who, having graduated as M.D. in some university, and having been examined by the College, have been authorized to practise to the same extent as the fellows; and who, up to a certain period, had ever been regularly summoned, together with the fellows, to attend the periodical College meetings; and were expected, as the fellows themselves, to attend those meetings in the accustomed habit "*induti pileo et toga*;" and were moreover privileged, equally with the fellows themselves, with certain exemptions, as from serving on juries, &c.

The reason for having made this distinction of fellows and licentiates is not apparent; nor is it apparent why, in the progress of time, the distinction became so limited as that none but

doctors in medicine of Cambridge and Oxford were admissible as fellows of the College. Of the intention of such a preference there is no indication in the original statute of foundation, or in the subsequent confirmations of that statute; by which, in order to be qualified for a fellowship, it was simply requisite that the applicant should be of good morals, and a Doctor in Medicine of any university, English or foreign: and among the fellows in the earlier years of the College many were not merely graduates of foreign universities, but were, both by birth and extraction, themselves foreigners, as has been stated to have been the case with reference to many of the physicians of London antecedently to the foundation of the College.

In the year 1575 there were only one M.D. of Cambridge and one M.D. of Oxford in the College: but there were in the same year no less than five individuals in the College, making one-fourth of its then whole number, who were foreigners by birth as well as with reference to their degree of Doctor in Medicine. And even so late as the year 1610, a proof of the little favour then shewn to the English universities, Dr. Bonham of Cambridge, as has been already stated, was imprisoned by the College for practising in London without a license from the College.

When the custom of admitting none but Doctors in Medicine of Cambridge and Oxford to the fellowship had been established many years as a fixed rule, and the numerous body of the licentiates despaired of any voluntary altera-

tion of that custom on the part of the College, the question of the eligibility of the licentiates was tried in the Court of King's Bench ; and repeated litigations took place : of which the most remarkable were decided by lord Mansfield, and by one of his successors, lord Kenyon. And it ought to be particularly noticed, that although each of those judges gave a decision against the licentiates, yet they each observed, that, according both to the spirit and the letter of the original statutes of the College, the licentiates were admissible to the fellowship after due examination : but, inasmuch as the fellows were empowered to make by-laws, and the licentiates had accepted their license under those by-laws, the College could not be compelled to admit those as fellows who had accepted their license under laws which excluded them from the fellowship.

Lord Mansfield, however, publicly found fault with the by-laws in question, on account of their narrowness ; and “ advised the fellows of the “ College to amend them ; inasmuch as, in conformity with their trust, they are obliged to “ admit into the fellowship all that are duly “ qualified, even foreigners.” Thus, when sitting in judgment in the year 1767, he used the following words : “ The main end of the incorporation (of the College) was to keep up the “ succession ; and it was to be kept up by the “ admission of fellows after examination. The “ power of examining, and admitting after examination, was not an arbitrary power, but a “ power coupled with a trust ; and they are

“ bound to admit every person whom upon exa-
 “ mination they think fit to be admitted, within
 “ the description of the charter, and the act of
 “ parliament which confirms it. The person
 “ who comes within that description has a right
 “ to be admitted into the fellowship: he has
 “ a claim to several exemptions, privileges, and
 “ advantages, attendant upon admission into the
 “ fellowship. And not only the candidate him-
 “ self, if found fit, has a personal right, but the
 “ public has also a right to his service; and
 “ that, not only as a physician, but as an officer
 “ in the College in the offices to which he will
 “ upon admission become eligible.”

Lord Mansfield, having expressed his opinion
 on the same occasion, that the practice of esta-
 blishing licentiates probably grew out of what
 he denominates an “illegal by-law, which for-
 “ merly had restrained the number of the fel-
 “ lows to twenty,” allowed that “the College, as
 “ now constituted, is at present to be considered
 “ as the body corporate.” But he added the
 following advice to the College: “I have a great
 “ respect for this learned body; and if they
 “ should think proper to hearken to my advice,
 “ I would wish them to consider whether this
 “ may not be a proper opportunity for them
 “ to review their statutes. And I would recom-
 “ mend it to them to take the best advice in
 “ doing it; and to attend to the design and
 “ intention of the crown and parliament in their
 “ institution. I see a source of great dispute
 “ and litigation in them, as they now stand.
 “ There has not, as it should seem, been due

“consideration had of the charter; or legal advice taken in framing them.” In the foregoing opinion of lord Mansfield, his brother, Mr. Justice Aston, entirely coincided.

In 1768, lord Mansfield again reminded the College of their duty, and added: “The College will now consider whether they will trust to a return upon these by-laws, or mend them.” And in 1771 he again censured the by-laws, repeating his question, “whether they (the fellows of the College) would think it advisable to trust to a return upon their present by-laws; or whether they would not consider about mending them?”

In consequence of lord Mansfield’s recommendation a by-law was made, by which the president of the College was empowered, if he chose, to recommend annually “two licentiates, of ten years’ standing,” to be elected by a majority into the fellowship. Afterwards this privilege of the president was narrowed, first, to proposing one licentiate annually; and, subsequently, to proposing one licentiate biennially. And about the same time another by-law was made, by which any fellow of the College might propose a licentiate “of seven years’ standing, who had completed his 36th year,” to be examined for admission to the fellowship.

It is not necessary to describe the operation of these new by-laws further than to say, that between 1771 and 1798, the president exercised his privilege exceedingly rarely; and the proposals by individual fellows issued in disappointments so unexpected, as to induce the

licentiates again to apply to the Court of King's Bench for redress, under the chief justiceship of lord Kenyon.

Lord Kenyon assented to lord Mansfield's opinion as to the eligibility of the licentiates in general, according to the original acts; but decided against the present licentiates on the ground that by the new by-laws, made in consequence of lord Mansfield's recommendation, they could have no difficulty in gaining admission to the fellowship by the recommendation either of the president or some of the fellows.

It is important to observe, that during the period between lord Mansfield's and lord Kenyon's decisions, the positive number of the licentiates had been much increased; and the proportional number much more increased; and among them were many individuals distinguished, not only by their eminence in medicine and its allied sciences, but also in classical and general literature (as indeed lord Mansfield had acknowledged to be the case in his own time); in proof of the truth of which assertion, it will be sufficient to mention the names of Wm. Hunter, Percival, Parry, Currie, Jenner, Woodville; to which many more might be added*.

* It is worth noticing the relative proportions of the licentiates and fellows at two distant periods. In the year 1797 the number of the fellows was only 48, while that of the licentiates was 105. In the year 1677, i. e. about a century and a half after the foundation of the College, and also about a century and a half from the present time, the number of fellows was 65; of licentiates, only 10, who, doubtless, practised as Aurists, &c.

It is also of importance to observe, although with an indirect reference to the present question, that, very soon after the last unsuccessful attempt of the licentiates, the late lord Stowell, then sir William Scott, expressed a hope, more than once, that the University of Oxford would, by an alteration of the medical portion of its statutes, enable him to say that degrees in medicine were not now conferred, as formerly, without any public proof of the competency of the candidate; but that each candidate was required to undergo such an examination as it became the University to exact. There can be no doubt that, although sir William Scott did not express himself explicitly, the want of such an examination appeared to him a defect, of which, too probably, advantage would be hereafter taken to the prejudice of Oxford. And here it is due to that University to add, that the alteration suggested by sir William Scott has been made; and that the examiners under the new statute have, it is believed, discharged their duty conscientiously to themselves, and justly to the public.

With relation to the general question of Medical Reform, it may be stated, that, for a long period, the attention of the profession was almost exclusively occupied on that subject, by the consideration of the difficulty of admission to the fellowship of the College of Physicians. At present a much wider view is taken of that question; and in order to afford some data on which an opinion may be founded as to the

expediency and requisite extent of Medical Reform, the following facts are mentioned as partially explanatory of the actual state of the profession.

It appears that there are no less than nineteen sources of examination for licenses or degrees in medicine; of which as many as seventeen are in constant operation: viz.—

NINE UNIVERSITIES.

Cambridge.
Oxford.
Dublin.
Edinburgh.
Glasgow.
Aberdeen.
St. Andrews.
London.
Durham.

EIGHT CORPORATE BODIES.

London College of Physicians.
————— Surgeons.
————— Apothecaries' Company.
Edinburgh College of Surgeons.
Royal Dublin College of Surgeons.
Faculty of Physic and Surgery of
Glasgow.
Medical Department of the Army.
————— Navy.

It is a fact, at first hardly credible, that scarcely one of these institutions can afford legal protection to its members; as will appear sufficiently for the present purpose, from the following statement, made by a member of the profession, who has examined the whole question of Medical Reform, with a degree of talent, industry, and temper, rarely combined in the same individual: the refusal of whose permission to mention his name I deeply regret, being very much indebted to him for information communicated to me on the present subject; and desirous therefore of expressing my thanks; particularly, because in several of his publications he has strenuously advocated the cause of

Cambridge and Oxford, though totally unconnected with either of those Universities.

The London Apothecaries' Company is perhaps invested with the fullest powers: but even its protecting power is limited to mere pharmacy, i. e. the preparation and sale of medicines; and does not extend to the main vocation of its licentiates as medical practitioners. This company has legal power under its act to prevent unlicensed practice of pharmacy: yet even this, in point of fact, extends only to the pharmaceutical practice of *medical* men; for the non-medical can set them at defiance, and can open shops, unrestrained as chemists and druggists; thus becoming to all intents and purposes dispensing apothecaries.

The English Universities grant medical degrees, with a license to practise throughout England, except in London, and within seven miles around; to practise within which limits even Cambridge and Oxford medical graduates must have the license of the London College of Physicians. The license, however, of Cambridge and Oxford graduates to practise elsewhere carries with it no protection, for any one, qualified or not, may do the same.

The London College of Physicians has legal power to levy a fine on *physicians* convicted of practising in London without their license. This is the most direct protecting power that exists, yet it is inoperative; for the party arraigned may evade the penalty with very little difficulty. The College very rarely resorts to this power: and, in their latest prosecution, Dr.

Harrison escaped on the plea that, in the cases cited, he had practised as a surgeon.

The London College has also the power of licensing in the provinces; but the law in this respect has ever been a dead letter. The act of Henry VIII. pronounces it illegal to practise physic in any part of England without the College license, excepting the medical graduates of Cambridge and Oxford: but no one is enjoined to prosecute, and no penalty is annexed. A "qui tam" informer may inform against and convict an offending individual; and on such conviction a judge would have no alternative but to award punishment for the violation of the statutory prohibition, which in such case would be fine and imprisonment. The informer would be entitled to half the fine allotted for information: but, this being too small to tempt his cupidity, provincial physicians have been left undisturbed; in common however with all who choose to practise physic with any or no medical degree. And thus it is seen that the extra-licentiates of the College, i. e. the provincial licentiates, have no protection.

The College of Surgeons, of London, give no protection whatever; for any one who pleases may both profess and practise surgery, there being no prohibitory power.

The question of Medical Reform, like all other questions which involve the contemplation of changes in existing customs and institutions,

requires very calm consideration, as well with reference to its original expediency as to its requisite extent.

If the united voice of nearly all the individuals who constitute the medical profession may be admitted as a just indication of the necessity for reform, nothing more need be said in proof of the existence of that necessity; for that united voice is already raised in favour of the measure. But there still remain to be discovered the best means of effecting such salutary changes as may with the least inconvenience remedy the several evils which require correction.

It happens, almost necessarily, from the insulated position of the medical profession, that the conflicting interests of its several branches, and the unequal demands of its chartered institutions with reference to the professional qualifications of its members, are but very imperfectly known, and cannot therefore be duly estimated by any one out of the profession. And this circumstance affords perhaps the best apology for any one within the pale of the profession, who, as in the present instance, proposes to offer his observations on the subject of Medical Reform: for thus other individuals, and more especially those from whom alone any national legislative measure can proceed, may probably be induced to examine the question more accurately, and be enabled to elicit more appropriate and important information. In the mean time, I would respectfully solicit all those whose interests are directly impli-

cated in the proposed measure, to exercise that mutual good-will and forbearance which ought to mark the proceedings of the members of a liberal profession ; in order that on the one hand may be manifested the single desire of a salutary reform, and, on the other, a similar desire to acquiesce in such changes as not only the general interests of the profession, but of the public also, may require.

It is equally as noble in communities, as in individuals, to acknowledge and amend an error ; as it is ignoble to persist in it : and it must be admitted by every unprejudiced inquirer that, had all the existing institutions of the medical profession always adhered to the spirit of their original foundations, many of the present evils would have been prevented. In contemplating and feeling the effects of those evils, we may all perhaps be disposed to say, as representatives of our respective institutions,

“ *Quisque suos patimur manes,*”

and the best and most unobjectionable wish that can be expressed on the occasion is this : that should new life be infused into us by the projected measure of reform, we may preserve for ages to come whatever healthy vigour may be imparted to us by the regulations of that reform.

Neither wishing to lengthen these observations unnecessarily, nor desirous of entering too deeply into a question which requires a more comprehensive view than I feel myself capable of taking, I propose to offer only a few

more remarks on the present subject ; which however I offer with some confidence, because I know them to be in accordance with the views of several members of the profession, who though among the warmest advocates for Medical Reform, are most desirous of respecting existing institutions to the utmost possible extent compatible with the alterations essentially requisite.

The most prominent and most general object of the advocates of Medical Reform appears to be a uniformity of qualification, to be tested by a public examination, in all the candidates for a license to practise medicine. The desire of this uniformity has naturally resulted from the consideration of the fact that scarcely two of the numerous existing boards of examination exact the same kind or the same degree of qualification ; and that each medical school determines, independently of all the rest, the character and the period of its annual courses of professional study, whether in the form of lectures or clinical observation. But it is here fair to state, that in almost every instance these annual courses are, with reference both to character and length, sufficient for the due instruction of the pupils ; the average annual period of study being from six to eight months ; the annual average number of lectures being from 110 to 140. It is also fair to state, that although not half the same number of professional lectures could be delivered in Oxford, consistently with the existing system of that university, and it may be presumed that no one would be desirous of unnecessarily disturbing

that system, yet, as every candidate for even the earliest of the two degrees in medicine must first have resided four years in the University for the purpose of studying the classics, &c., and must afterwards have passed three whole years in an accredited school of medicine, London being usually that school, Oxford may be considered as virtually upon a par with the other medical schools of this kingdom : and what has been affirmed of Oxford may, in every essential point, be applied to Cambridge.

It can hardly be denied that a change is desirable in that part of the existing system above described, which refers to the inequality of the standard of qualification expected by the different boards of examination for license to practise. But since such change would require the establishment of one national board of examination, which should alone have the power of granting license to practise, it is in the highest degree probable that to such a change every existing board would be at first disposed to object, as annihilative of its own power. And yet, if in the proposed new national board, each existing board were to be represented by one or more of its members, among others chosen from the profession at large ; and if a certain proportion of the whole were in succession delegated to act as examiners in each session, the objection might probably be removed.

With respect to the future condition of existing institutions, there appears nothing in the least derogatory to their dignity ; nor, which is of much more consequence, to their professional

utility and efficiency, in considering them henceforth as independent scientific societies ; which, retaining all their present members and internal laws, might henceforward admit new members by the same mode as new members are customarily admitted to the Royal, Linnean, and other scientific societies. Each of the existing institutions might still have its own library and museum, and its own lectures ; each might have its own meetings, and publish its own transactions ; and all, vying with each other in the spirit of a liberal emulation, might continue to benefit both individuals and the public, quite as effectually as under the present system.

And, on the same principle, the several universities which have the right of conferring medical degrees, might still exact a previous public examination of the candidates for those degrees.

To the demand that of every candidate for a medical license, such an examination should be required as might shew a due qualification to practise either as a "physician," or a "surgeon," or as a "general practitioner," there does not seem any reasonable objection ; nay, it is quite expedient that every candidate for a medical license should be so qualified. For, although it is true, as is observed in a very judicious and candid article on Medical Reform in the "Quarterly Review" of December 1840, that very few physicians practise surgery in this country ; yet, as might have been justly added, had it occurred to the writer of that article, it is also true that every physician ought to be acquainted

with the principles of surgical practice. And it is equally true, as indeed is implied in the same article, that, even in London, all surgeons must necessarily act as physicians in very many of the cases of their specific practice; while, out of London, except in the very largest provincial towns, no surgeon could gain a competence were he to confine himself to a practice purely surgical. Hence, therefore, it follows that every candidate should be qualified for all the three branches of medical practice; since this being granted in the case of the "physician" and "surgeon," it must necessarily be granted in the case of the "general practitioner;" inasmuch as he combines in his own practice the practice of the other two.

I know not whether I am correct in supposing that there are some among the advocates of Medical Reform who are desirous of making the proposed national board the source not only of medical licenses, but of medical titles also; nor do I know how such a regulation would be regarded by the members of the profession at large. The obvious objection to the measure is its apparent inutility: for, provided the board can give a license to practise in any and in all the three branches, into which the profession is actually and always must be divided, it would appear that the essential point is gained, as far as individuals are concerned: and, on the other hand, no corporate bodies or universities need be jealous that the power of granting titles or degrees should be extended to one additional source of such titles, further than from the

motive of a consequent diminution of their pecuniary revenues—a motive, which at the present day can hardly be supposed to influence the members of a liberal institution in their collective capacity.

The preceding observations having been made with the desire of suggesting a few leading topics of inquiry to individuals not belonging to the medical profession, on the subject of Medical Reform, it is not intended to enter into the consideration of the various details of the proposed measure; information on which points will be more readily and more satisfactorily obtained from other sources.

It need only be added that, although these observations have been confined to England, they are applicable to similar alterations in Scotland and Ireland. Thus, for instance, there might be an appointment of one general board of examination in Edinburgh and Dublin, as well as in London; each board acting independently, but regulated by the same principles: by which means the great difficulty would be obviated of compelling the members of the Scotch and Irish boards to meet the members of the English board periodically in London; the palpable inconvenience of which plan, not to say the moral impossibility of putting it into execution, must be evident on a moment's consideration.