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REMARKS

ON THE

BRITISH QUARANTINE LAWS,

AND THE SO-CALLED

SANITARY LAWS OF THE CONTINENTAL NATIONS OF EUROPE,

ESPECIALLY THOSE OF

SPAIN.

BY CHARLES MACLEAN, M. D.

KNIGHT OF THE SPANISH ORDER OF CHARLES III.; MEMBER OF THE MEDICAL ACADEMIES OF MADRID AND BARCELONA; COMMISSIONED BY THE SPANISH GOVERNMENT TO INVESTIGATE THE NATURE AND CAUSES OF THE FEVER OF BARCELONA, IN 1821.

"In the fourth volume, the reader will find a retraction of the author's former opinion of the Yellow-fever spreading by contagion. He begs forgiveness of the friends of science and humanity, if the publication of that opinion has had any influence in increasing the misery and mortality attendant upon that disease. Indeed such is the pain he feels, in recollecting that he ever entertained, or propagated it, that it will long, and perhaps always deprive him of the pleasure he might otherwise have derived from a review of his attempts to fulfil the public duties of his situation."

RUSH'S MED. ENQ. AND OBSERVATIONS, PREF.

ORIGINAL.

LONDON.

1823.

REMARKS,

&c. &c.

THE code of Quarantine laws in England, and of Sanitary laws in the nations of the continent of Europe, is, perhaps, without exception, the most gigantic, extraordinary, and mischievous superstructure, that has ever been raised by man, upon a purely imaginary foundation. All these codes being in principle similar, I shall here limit my observations to the English regulations of quarantine, and to the Spanish sanitary laws, as affording examples of the whole.

The regulations of the English code, as it at present exists, will be found comprehended in a collection of articles, published by the King's printers, under the title of "An Act, passed the 12th of March 1805. (45 Geo. III. cap. x.) for making farther provision for the effectual performance of quarantine; and also an order in Council, dated 5th April 1805.: with reports from the Board of Health." The Act consists of 44 clauses; the order in Council of 50 articles; and these, together with the two reports of the Board of Health, occupy 143 large 8vo pages. They seem to have been principally founded upon the sanitary regulations of the continental nations of Europe, and upon Russell's "Treatise of the Plague," published in 1791, comprehending, with Appendix, about 750 large 4to pages, which, in the preface, he modestly characterises as only "improvable *hints*."

The project of a code of sanitary laws, presented last year by their committee of public health, to the Spanish Cortes, (now finally rejected, principally in consequence, as I have reason to know, of my representations to that body,) consists of 400 articles, condensed into 64 close octavo pages, of which an examination will be found in my "Sketch of Proceedings in Spain, in illustration of the invalidity of the doctrine of Pestilential Contagion, and of the pernicious effects of quarantine or sanitary laws, &c."

The professed object of the laws in question, very different, as I shall show, from their real object, is to prevent the exportation, importation, and spreading, of epidemic diseases, by the action of

a supposed specific *virus;* no means having been adopted to ascertain the existence of the alleged evil, previous to the application of the supposed remedy. Its existence was indeed implicitly taken for granted; and reversing the usual mode of philosophising, which fixes the *onus probandi* upon the parties affirming any proposition, those who have denied the truth of this doctrine, or who have refused to believe it without evidence, have been required to prove a negative. In matters of science, according to the maxim, that "de quid non apparentibus, et de quid non existenbus eadem est ratio," absence of all proof of existence ought, in fairness, to be deemed sufficient proof of non-existence. But, as if pestilential contagion, instead of a matter of fact, were only a matter of faith, it has been represented as safer to believe than not to believe in its existence, without any reference to its truth or falsehood.

This doctrine throughout has been nothing but a series of gratuitous assumptions, each surpassing the other in absurdity. The number of the affected has been assumed as evidence of propagation from person to person; the fact of contact as evidence of contagion; and the cessation, or diminution of sickness, as evidence of the efficacy of sanitary precautions. With power always on their side, the adherents of pestilential contagion have been enabled to maintain their positions, without the trouble of adducing any valid proof, unfairly throwing the *onus probandi*, as I have said, upon their adversaries. Their endless assumptions it has been equally impossible to prove or to disprove. Disputes on controvertible assertions have necessarily terminated without any satisfactory conclusions: and their uniform results have been uncertainty and distraction, to which it did not appear that there would for a long time be an end, unless, in respect to the existence of contagion, we could succeed in proving a negative, by showing the impossibility of the affirmative. This task I have undertaken and accomplished. In my "Suggestions for the prevention and mitigation of Epidemic Diseases," &c.; in my work, entitled, "Results of an Investigation, respecting Epidemic and Pestilential Diseases, including Researches in the Levant concerning the Plague;" and in my "Sketch of Proceedings in Spain, in illustration of the invalidity of the doctrine of Pestilential Contagion, and of the destructive Effects of Quarantine or Sanitary Laws," &c. I have repeated, with additional force, my demonstrations, first promulgated in 1796 in India, of the impossibility of the existence of pestilential contagion; showing farther, that that doctrine, in an accredited form, was first promulgated, for political purposes, by the authority of the see of Rome, in 1546-7, under the pontificate of Paul III.;

and that the immediate occasion of this pious fraud, was to create a pretext for the translation of the Council of Trent to Bologna.

Thus the professed object of all codes of quarantine or sanitary laws, when submitted to strict examination, has been found to have no existence. It has also been farther shown, that, even, if pestilential contagion did undoubtedly exist, these laws would be still unjustifiable; as well as, that they are, in either case, highly detrimental to many of the best interests of communities. In instituting a code of laws so extensive, as it were upon trust, i. e., without any previous inquiry into the validity of the doctrine upon which they were professed to be founded, into the existence of the evil which they were proposed to remedy;—in afterwards continuing, at an immense expense and injury to the public, to maintain those laws, without any adequate examination of their merits; and in even resisting or evading a full and fair investigation of the subject, after strong grounds had been laid for disbelieving the existence of the evil which they professed to obviate, and for considering them in their operation highly injurious to communities, we find reason to conclude, that on the part of governments, there exists a distinct interest in favor of those enactments, independent of their effects upon the health, welfare or prosperity of communities. This is a matter which cannot admit of a doubt; and, in order that nothing relating to this investigation might be left incomplete, I have clearly shown wherein this interest consists.

My object here, is merely to give a general view of what those regulations are, *for preserving the health of communities*, of which the maintenance is so dear to certain governments, and so expensive and injurious to nations. They consist of—1. Measures for preventing the exportation of pestilential contagion; or Bills of health:—2. Measures for preventing the importation of pestilential contagion; or Quarantine and Lazarettos:—3. Measures for preventing the propagation or spreading of pestilential contagion; or lines of circumvallation, ditches, cordons of troops, shutting up the sick in their houses, compelling them to leave their homes, immuring them in pest-houses, and, in general, all modes of separation, seclusion and restriction. These measures were first adopted in Venice, in the 16th century, and afterwards successively in other Christian countries. The regulations of quarantine, which actually exist in Great Britain, and the project of a code of sanitary laws, presented to the Spanish Cortes last session, by their committee of public health, but not then discussed, and subsequently rejected, may serve as examples of them all.

BRITISH QUARANTINE LAWS.

I.—MEASURES FOR PREVENTING THE EXPORTATION OF PESTILENTIAL CONTAGION; OR BILLS OF HEALTH (PATENTS.)

Bills of health are certificates, granted to ships, sailing from places subject to pestilence, declaring the state of the public health, as to pestilence, at the period of their departure, for the purpose of regulating the duration of their quarantine at the port of their arrival. They are either clean, foul, or suspected. The operation of these certificates will be found particularly described in my "Results of an Investigation respecting Epidemic Diseases," &c.

Whatever may have been the precise period, at which the practice originated of obliging ships to provide themselves with certificates of health, it is certain that it could not have commenced previous to the middle of the 16th century, i. e., previous to the existence of the ideas upon which such a precaution was founded. The first mention which I find of bills of health, is in Morryson's Travels (p. 241, 243), which state, that an English traveller, who was at Aleppo in 1596, had a clean patent, Syria being then free from the plague. The Levant company, in their answer to the commissioners of customs, dated March 14, 1720, declare, that, up to that period, their ships "not having been obliged to perform quarantine in England, the sole intent of the certificate or bill of health, was to serve them in the Mediterranean." The regulations of the Levant Company, concerning bills of health, are detailed in Russell's "Treatise of the Plague," p. 344. That writer, partial as he was to these institutions, acknowleges them to be defective and insecure (p. 362.) If such precautions, indeed, could ever be of any utility, they would, in respect to the Levant, necessarily be always precarious in their operation, from the uncertainty of the information, upon which they are founded; sickness being concealed, feigned, or exaggerated, according to the presumed interests of the Reporters, who are generally natives, and for the most part commercial speculators. Mr. Green, for many years Treasurer of the Levant Company, in his evidence before the committee of the House of Commons, in 1819, says, "the bills of health are determined by the foreign consuls at Smyrna, upon the report of a number of Greek merchants, who form a committee for the purpose. These merchants carried on principally the trade between Smyrna and Holland, that is, several were concerned; it was their interest to establish foul bills of health, in order to keep the trade to themselves, because English

ships could not come to England without going first to Malta or Leghorn, or some other Lazaretto in the Mediterranean, to perform quarantine of ninety days. In the mean time, the Greeks loaded cotton, wool, and other goods, and all the articles which constituted the chief object of the trade, in ships which they sent to Holland." (Report, 4th July 1819, p. 35.)

II.—MEASURES FOR PREVENTING THE IMPORTATION OF PESTILENTIAL CONTAGION; OR QUARANTINE AND LAZARETTOS.

"We may as well build a wall to keep out larks, as barracks to keep out plagues." Distinct notions of the Plague, London, 1665. p. 73. "No quarantine has been till now (1720) laid on ships or goods from Turkey, a trade which has been carried on for about 140 years without any ill consequences, which we hoped would have exempted us from this act." Levant Company's Petition to His Majesty in Council, dated 31st. of January 1720.

"It is not to be denied, that, as matters stand at present, quarantines, without being *so secure a defence as is commonly imagined*, are *a certain heavy tax upon commerce*; the *benefit* they promise to the *state* is *very precarious*, the *detriment* to the *merchant* is *real*." Dr. P. Russell's Treat. of the Plague, p. 466,7.

In 1511, we find the first mention of any commerce from this country to the Levant Seas. (And. Com. II, 22.) "From 1511 to 1534, diverse tall ships of London, and of Southampton and Bristol, had an unusual trade to Sicily, Candia, and Chios, and sometimes to Cyprus, and to Tripoli and Bareuth in Syria. . . . In 1535, a ship of 300 tons, with 100 persons, from London, made a Levant voyage, then thought dangerous, in eleven months," Id. Ibid. p. 60. It was 210 years after the commencement of this commercial intercourse, and 140 years after the establishment of the Levant Company, before any precautions of quarantine, in respect to Turkey, were adopted in England.

In the 16th century, but at what precise period I have not ascertained, quarantine and Lazarettos were first introduced into the Venetian States, and afterwards successively into the other States of Italy. In 1669, they were adopted in France, in consequence, I presume, of the terror inspired by the plague in London, in 1665, of which cases continued to occur sporadically for several years.

Until 1710, no precautions by act of parliament were adopted in England, to prevent the introduction of pestilence from foreign countries. From the preamble to the first quarantine act, passed in the 9th. of Queen Anne, it appears that orders had pre-

viously been issued by her Majesty in Council, respecting the performance of quarantine, being probably the first official interference in England, in respect to the importation of contagion from any foreign country. The immediate occasion of it was the prevalence of pestilence at Dantzic, and various places on the shores of the Baltic. Upon this occasion, sheds were erected for airing goods at Hoo Fort.

The act of 1710 expressly empowered the Crown, in case of any foreign places being infected, to issue such orders for the performance of quarantine, *as might appear necessary*. It was intitled "An act to oblige ships coming from places infected, more effectually to perform their quarantine," and had no reference to the trade or shipping of the Levant, which were not comprehended in these regulations until the succeeding reign.

It was upon the occasion of the plague at Marseilles, in 1720, that the subject came again before parliament; and, in January 1721, an act was passed "for repealing the act of Queen Anne, and for the better preventing the plague from being brought from foreign parts into Great Britain, or Ireland, or the Isles of Guernsey, &c. *and to hinder the spreading of infection.*" The continuance of this act was, by a clause added by the Lords to a subsequent act, limited to the 25th of March 1723.

Against the passing of this bill a petition was presented by the Levant Company in the following terms:

"To the honorable the Commons of Great Britain in parliament assembled, the Humble Petition of the Governor and Company of the Merchants of England trading to the Levant seas:

"*Sheweth*—That whereas there is a bill now depending in the Honorable House, for altering and amending the laws for obliging ships coming from places infected to perform their quarantine, and for preventing the spreading of infection, wherein there are some clauses, which your petitioners humbly apprehend will put an entire stop to the future carrying on their trade, which principally consists in the exportation of the woollen manufactures of this kingdom, and the importation of raw silk and Mohair yarn.

"Your petitioners therefore most humbly pray that they may be heard by themselves, or by their counsel, against the said clauses, before the said bill passes into a law.

"And your petitioners shall ever pray. 13th January 1720. Presented the same day, Sir Gerard Conyers being Deputy Governor."

The obnoxious clauses of the bill, alluded to in this petition, were, I apprehend, those, which conferred on the Crown the power to suspend trade, and to destroy property. Whether, in virtue of this bill, commerce has ever been formally and generally suspended, I am not aware; but the other exceptionable clause

has, in more than one instance, been acted upon. There is one case of this destruction upon record, even antecedent to the act. By an order of Council, dated the 4th of March 1720, the ships Bristol Merchant, and Turkey Merchant, were ordered to be burnt, as appears by a petition presented to His Majesty by the Levant Company, dated the 2d of May 1721. And, in June 1721, we find that £.23,935 were voted, in a committee of supply, to the owners of the ships and goods so burnt. (Russell's Treatise, p. 423, note.) In 1800, the ships Aurora, Mentor, and Lark, from Mogadore, were destroyed, with their cargoes, pursuant to an order in Council of the 7th of January 1800. (Append. to the Report of the Committee of the House of Commons respecting the contagion of the plague, 4th July 1819.) Mr. Green, in his evidence, conjectures that the value of these vessels and their cargoes, which the treasury had to make good, must have exceeded £.20,000. (Report of 1819, p. 41.)

In a petition, dated the 31st of January, and presented to his Majesty in Council in February 1720, the Levant Company make the following very pertinent remarks.

"The dominions of the Grand Signior are of so vast an extent, that the plague may be in one part, and no way dangerous to another. But this act, as we humbly presume, may oblige all ships coming from Turkey to perform quarantine, though even from places not infected, since it must be concluded that there is a constant correspondence through the whole empire, which has been scarce ever known to be free from infection in every part of it. We most humbly hope that the good state of health, at any port in Turkey where our ships shall lade for England, being certified by your Majesty's ambassador at Constantinople, or the respective consuls, may be sufficient to prevent any ship, goods, wares, or merchandises, accompanied by such clean patents, from performing quarantine, provided the ship's company and passengers are found to be perfectly free from any contagion, after a voyage of seldom less than three months, but oftener four or five,[1] since in Italy, where the rules of quarantine are most strictly observed, the merchant is generally possessed of his goods in less than that time after the ship's departure from Turkey.[2]

[1] At that period the Levant Company's ships usually sailed in fleets; by which, and the then state of the art of navigation, it happened that their voyages were of much longer duration than at present.

[2] In Holland, where quarantine is scarcely more than *nominal*, the detention of the Levant goods, after their arrival in port, is so trifling, as to enable the Dutch merchants to anticipate the English in their own markets. This evil is in vain attempted to be obviated on the part of the British government, by restrictive laws on the indirect importation of Levant goods from Holland and other places.

"No quarantine has been till now laid on ships or goods from Turkey, *a trade which has been carried on for about* 140 *years*[1] *without any ill consequences*, which we hoped would have exempted us from this act."

But terror and fashion being predominant, and the Levant Company being considered as interested parties, their just representations were disregarded.

The plague of Marseilles, in 1720, gave occasion to the passing of two other acts of parliament in England, the following session; the one, "to enable His Majesty effectually to prohibit commerce *for the space of one year*, with any country, that is, or shall be, infected with the plague, and for shortening the continuance of an act passed in the 7th year of His Majesty (the quarantine act);" the other "to prevent the clandestine running of goods, and the danger of infection thereby; and to prevent ships breaking their quarantine." The one was passed on the 12th of February, and the other on the 7th of March 1722. The latter had, in the preceding session, been rejected by the Lords.

Power had been before given by the quarantine act, to prohibit, in times of pestilence, vessels of less burden than twenty tons, from sailing out of any port in Great Britain, &c., except under certain conditions. By the present act, foreign spirits were prohibited from being imported in vessels of less burden than forty tons; and ships departing without license from places appointed for quarantine, were forfeited, and the commanders fined two hundred pounds. (Russell's Treat. p. 444.)

This power of suspending trade *for the space of one year*, virtually amounted to an almost unlimited power over the affairs of commerce; since, as pestilence always exists in some of those parts of the world, with which we have commerce or intercourse, there would never want colorable pretexts for enforcing such regulations, as far as the exercise of them, at the same time that it was conducive to the unavowed views of government, might not be too glaring a despotism. Whether a power of this description is such as it is safe or proper to lodge any where, even supposing the danger, against which it is meant to provide, were not imaginary, I have elsewhere examined.

All these acts of the 7th and 8th of Geo. I., being temporary, terminated in two or three years; and, upon the expiration of the

[1] From the period of the existence of the commerce of the Levant Company; but it is certain that there had been intercourse between the two countries from 1511, as I have stated, or for 210 years, sufficient to have introduced the plague annually into England, if it had been capable of being exported and imported.

quarantine act, in March 1723, that of Queen Anne of course revived, and continues to be still in force. (Russell's Treat. p. 464.)

In May 1728, the 1st of Geo. II., an act was passed exactly under the same title as the former, excepting so far as regards the repeal of Queen Anne's act. Most of the smaller clauses relating to the quarantine of ships were the same, some nearly verbatim with those of the 7th of Geo. I. A few were however omitted; and the power of prohibiting commerce for the space of one year, which, in 1721, had been the subject of a separate act, was included in this. (Russell, p. 444.) Persons contravening this act were declared guilty of felony; ships and goods were forfeited, and the importers fined in *treble* their value. (Id. p. 445.)

This act, like those of 1720 and 1721, being only temporary, was permitted to expire in 1731; but, in 1733, pestilence again prevailing in some foreign places, it was renewed, and directed to be continued in force for two years from the 2d of June 1733, and from thence to the then next session of parliament. (Id. p. 445.) The title is, "An act for reviving so much of the act made in the 1st year of His Majesty's reign, intitled &c. as relates to the performing quarantine, and the preventing the spreading of infection, and to enable His Majesty to prohibit commerce with any country or place, infected with the plague, for a certain time therein limited." (Id. 445,6.)

From 1735 to 1753, the act of Queen Anne, which had no reference to the intercourse with Turkey, was the sole quarantine law in force in Great Britain. It does not, however, appear, that, during this interval, the Levant Company availed themselves of the exemption from quarantine, to which they became entitled by the expiration of the temporary laws which I have enumerated. In the mean time happened the plague of Messina, in 1743. His Majesty being abroad, the Lords of the Regency ordered all ships from the Mediterranean, bound to the river Thames, to do quarantine in Stangate Creek only. (Id. p. 446.)

In September 1743, the clerk of the Scipio fire ship was committed to the Marshalsea prison, by a special warrant from the Lords of the Admiralty, for six months, pursuant to the sentence of a court-martial, for not performing quarantine agreeably to the directions of the Lords of the Regency. The boatswain of the same ship was tried at the same court-martial, and condemned to die, for leaving the ship, and not performing quarantine. (Id. p. 446.)

In April 1753, on a proposition for enlarging the trade to the Levant seas, the subject of quarantine again came under consideration; and a bill passed the legislature, intitled, "An act to oblige

ships more effectually to perform their quarantine; and for the better preventing the plague being brought from foreign parts into Great Britain or Ireland, or the Isles of Guernsey, &c. &c." It commenced from the 1st of March 1754, and its continuance was left indefinite. It is remarkable, with regard to the title, as well as the preamble of this bill, that the words, "and for preventing the spreading of infection," are entirely omitted. This is the 26 of Geo. II. c. 6.

The bill "for enlarging the trade to the Levant seas" contained two clauses respecting quarantine: the one, enacting "that all rules, orders and regulations, made for preventing infection, shall be and remain in full force and virtue, as if this act had never passed;" the other, "that no goods or merchandises, *liable to retain the infection of the plague*, and coming from the Levant, without a clean bill of health, *shall be landed in any part of Great Britain, &c. &c.;* unless it shall appear to the satisfaction of His Majesty, his heirs, or successors, or of his or their Privy Council, that the said goods or merchandises have been sufficiently opened and aired in the Lazarettos of Malta, Ancona, Venice, Messina, Leghorn, Genoa, and Marseilles, or one of them." (26 Geo. II. cap. 12.) It does not appear that quarantine or Lazarettos were yet established at Gibraltar.

Dr. P. Russell has observed, in his Treatise on the Plague, p. 447, that quarantine had never before undergone such deliberate discussion in parliament as at this period. Until 1753, the subject was never taken up by the legislature, but when it was pressed upon them by some immediate urgency, and when the intensity of actual alarm necessarily led to the adoption not of the soundest measures. Unhappily, upon this occasion, the absence of the usual alarm did not lead to the adoption of measures less unsound: for, the existence of contagion being as usual taken for granted, without inquiry, the foundation of the proceedings being, as formerly, erroneous, none of the regulations emanating from them could be correct. The act now deliberately passed was but a repetition, with some trivial variations of those of 1720, 1728, and 1733, as these were almost mere transcripts of the quarantine regulations of foreign states.

The result of this deliberate discussion was, as must always happen when false premises are assumed, instead of improvement, a farther progress in error. Hitherto passengers in ships from Turkey were permitted freely to land in the first port which they made in the Channel. But, by the act of 1754, they were made amenable to the quarantine laws, and to such orders as they might receive from the proper officers. The quarantine which passengers are now obliged to perform consists, with foul bills of

health, of forty-four days, exclusive of probationary days, by which the sum total is from fifty to sixty days. But according to the early contagionists themselves, this ordeal is superfluous: and even Dr. Mead has admitted, that, "if there be no sickness in the ship, he can see no reason why the men should perform quarantine." (Discourse, p. 77.) And if there be no necessity for the performance of quarantine, on the part of the persons who have imported goods from Turkey, what can be the necessity that it should be performed by the goods? If these goods have not been known to propagate sickness among the persons who have taken them on board, and discharged them, how can they reasonably be supposed capable of propagating it ashore, after debarkation?

Muratori, another decided contagionist, applying his observations to Italy, says: "no one has produced a true and solid reason why *forty days* of quarantine should be necessary for expurgation. But, taking it for granted that infection cannot remain above *fifteen days*, *twenty days* quarantine is sufficient for *persons*. As to goods and other things, *however highly infected*, their expurgation may be completed in *twenty-four hours*, insomuch that they may be *handled with perfect safety*." lib. i. c. 12.

If, in Italy, which is less than half the distance from the Levant, twenty days be deemed sufficient quarantine for the expurgation of persons, and twenty-four hours for the purification of goods, I am utterly at a loss to conceive upon what rational grounds, according to their own doctrines, the partisans of contagion can recommend *any* quarantine to be performed in England, either upon goods or persons. Let it also be recollected that this law was enacted, after an experience of nearly 250 years, from the first intercourse with Turkey, during which, passengers if they desired it, were constantly landed in the first port in the channel, and without any mischief ensuing.

It is the nature of accredited error to increase in force, and to extend in mischievous consequences. "At Marseilles formerly (i. e. from the establishment of quarantine in 1669 to 1720, or for fifty years) passengers, with clean patents, performed a quarantine of five or six days only; but at present (1720) it is prolonged to *twenty*, and *for passengers from Constantinople to twenty-eight days*." Traité de la Peste, t. ii. p. 178. It might be difficult to determine whether the quadrupling the period of quarantine generally, or rendering that on passengers from Constantinople longer than on persons coming from other places, be the greatest absurdity. This latter is presuming that contagion increases in strength in proportion to the distance, which it has travelled, or that the contagion of the metropolis is more inveterate than that of the provinces. It would be less irrational to infer that passen-

gers from Smyrna should be rendered liable to a quarantine of longer duration than those from Constantinople in the inverse proportion of the distance. "Mais on ne finirait pas, si on voulait ramasser toutes les contradictions où le systême de la contagion a engagé ceux qui le soutiennent." Senac p. 182.

In 1754, soon after the quarantine act of the 26 of Geo. II., the sloop Fawey, Isaac Clemens, from Algiers, was sunk at sea, by order of Council. (Ingram's Historical Account, p. 197.) Thus the power of sinking ships, as well as burning goods, was exercised. Upon the Levant trade being laid open that year, it was thought necessary to enact that no ships, but with clean bills of health, should be received in England, excepting such as had previously performed quarantine in the Mediterranean, as if *contagion*, did such a thing exist in respect to pestilence, could be more readily conveyed in private ships, than in ships belonging to a company!

During the pestilence of 1743 at Messina, it was first proposed to build regular Lazarettos in England; but the measure was not carried into effect. In the same year, a bill for laying open the Levant trade passed the House of Commons, but was rejected by the Lords, probably apprehending that greater danger would exist of introducing infection under a free trade.

In 1752, when the measure of laying open the Levant trade, which passed into a law the following year, was again agitated, the subject of Lazarettos was revived. Chetney-hill was thought a proper site for such an establishment; and plans of a Lazaretto, with estimates of the charge of building, and of maintaining the same, were requested in an address to His Majesty, to which a gracious answer was returned: but nothing was in consequence done. Journals of the House of Commons, vol. 26.

In the year 1757 or 1758, an epidemic prevailed in England, and the country was alarmed by reports of the plague prevailing in Holland. Dr. Alexander Russell was consulted by Lord Chatham, then minister of state, and took a journey to Holland, in order to ascertain the truth of this matter. This affair appears again to have revived the subject of Lazarettos. A copy of a memorial, apparently drawn up by the desire of Lord Chatham, was found by Dr. Patrick Russell amongst his brother's papers; and a letter to that minister, which seems to have accompanied the memorial, dated the 28th of March 1758, which may be found at p. 438 to 440 of his Treatise of the Plague.

In 1764 the subject was again introduced into the House of Commons; and, in March 1765, in a committee of supply, £.5000 were granted to His Majesty towards building a Lazaretto

Here the matter appears to have rested until 1772, when an act was passed explanatory of the 26th of Geo. II., and empowering

the Lords of the Treasury to purchase lands, &c., directing the £.5000 already granted to be applied to the payment of the same, and the deficiency to be made good by duties levied on merchandise. By this act, a power was given to erect and establish permanent Lazarettos for the reception of persons and goods; but its provisions were not carried into effect. The agitation of the question at this period appears to have been occasioned by the raging of a pestilence, in 1770, in Wallachia, and some parts of Poland: for, we find, that on the 5th of October of that year, an order was issued for the performance of a quarantine of forty days, by all vessels, persons and goods, coming from Dantzic, or other parts of royal and ducal Prussia, or Pomerania. (Russell's Treat. p. 454.) Upon this occasion, *the power of appointing proper places for quarantine in the outports was left to the discretion of the officers of the customs:* and it was probably the inconveniences arising from the exercise of this authority that occasioned the subject to be brought into parliament.

In December 1780, the plague raging in the Ukraine and Volhinia, regular stations, seven in England, four in Scotland, and two in Jersey and Guernsey, were appointed for the performance of quarantine. (Russell's Treat. p. 454.)

In July 1783, information having been received of a pestilence having appeared on the borders of Poland, a quarantine of 40 days was again imposed on the ships of Dantzic, Prussia, and Pomerania. Neither at this period, nor in 1770, nor 1780, was grain exempted, although, in the two latter years, there was an express exemption in favor of wine and oil, which, like grain, are reckoned among the articles *not susceptible of infection.* (Russell's Treat. p. 457.) But, in consequence of a threatened famine in Edinburgh, and a memorial from that city, the restraint of quarantine was, on this occasion, directed to be taken off all vessels laden solely with grain.

At all these periods, it was a general rule of Council to impose a full quarantine of forty days, or to take it off entirely. (Russell's Treat. p. 463.) In 1770, upon the petition of certain merchants of London, trading to Hamburgh and Bremen, the restraint of quarantine was directed to be taken off ships from these places, in November.

Adverting to the fluctuating and contradictory orders of the Privy Council, in respect to quarantine, Dr. P. Russell (p. 453—467) takes occasion repeatedly to recommend the adoption of a board of health, according to the custom of foreign nations. "The quarantine act," says he, "marking the great lines only, leaves the details and execution to His Majesty in Council; which, *different from the practice in most other countries,* constitutes the only

board of health in Britain." (p. 453.) Again: "A board, whose only business had been the regulating of quarantines, would in all probability have proceeded upon better information, would have been better prepared for the various cases that present, and would not have issued such fluctuating orders." (p. 461.) In another place he says: "Upon the whole, there appears reason for thinking, that *the management of quarantine should be entrusted to a council of health, distinct from the Privy Council.*" (p. 466.) And a little farther: "If, on the one hand, such a council, inflexible in well-founded resolutions, would be less accessible to private solicitation; on the other, the merchant would know better on what he had to depend; he would be less disposed to speculate by wavering orders, and would have less to fear the influence of powerful intercession obtaining unequal indulgencies. The inevitable hardships upon commerce, in suspected times, would be common to all, and would never be imposed but upon solid presumptions of necessity." (p. 467.)

I agree with Dr. Russell in considering the discretionary power conferred on the Privy Council by the quarantine law, as wholly unconstitutional, and altogether improper; (p. 505-6) and I farther assert that it would be so were the dangers, which it was the intention to obviate, real. But I do not, by any means, agree with him, that this discretionary power, in matters of quarantine, could be more safely entrusted in the hands of a council of health, or that such board, composed of a few individuals of inferior rank, would be either more competent to the duty to be performed, or less accessible to the operation of undue motives, than the Privy Council of the nation. Whilst the regulation of the whole external commerce of the country is, on account of a chimera, to be placed at the disposal of any tribunal, it is much better that the power of restraint should remain where it is, than descend to inferior hands. The two Russells (Alexander and Patrick, brothers) had, from their long residence in Turkey, been accounted leading authorities upon the subject of the plague. But, besides having their minds super-saturated with the general error of contagion, it is quite obvious, from what I have already quoted from Dr. P. Russell's Treatise, as well as from some passages of Dr. A. Russell's Letter to Lord Chatham, that the establishment of a board of health in London, subjected to *medical* jurisdiction, was an object which they had much at heart. This inference is clearly deducible from the following passage especially: "The whole of the health officers, throughout the kingdom, ought to be under the direction of the board of health in London, consisting chiefly of gentlemen, who have seen something of quarantine abroad, and *who would be induced by their public spirit to serve*

without salaries. To these should be added a *secretary*, and a *physician*, to assist in giving the proper directons, and to visit the Lazarettos *in cases of emergency.*" (p. 440.) Who were the persons in view for secretary and physician is very obvious: and it is equally evident that, with the almost unlimited discretionary powers with which it was in contemplation that they should be invested, no responsibility could be imposed, which could prevent this board, but particularly the secretary, and still more the physician, from engrossing, in such a case, an unlimited authority and patronage, amounting even to a complete despotism over the whole of the exterior commerce of Great Britain. This was certainly a gigantic project; and had it succeeded, the boundaries of contagion would probably have been extended to the Chinese and the Indian seas. But owing to the reluctance of the Privy Council to part with any share of the authority and patronage, which they had been accustomed to exercise, it happily failed. The physician too, it may be observed, was only to visit the Lazarettos, *in cases of emergency!* In this, as well as in every thing else, in which England has aped the councils of foreign, and in general slavish nations, she has done wrong. We shall see presently that Dr. P. Russell was one of the principal authors of the quarantine regulations established in this country in 1800, and afterwards revised, and, with some trivial alterations, confirmed, in 1805.

In the year 1788, an act was passed (28 Geo. III. cap. 34) "more effectually to secure the performance of quarantine, and for amending several laws relating to the revenue of customs." (Russ. p. 581.)

By an act passed in the 38th of Geo. III. c. 99, some of the regulations of the 26 of Geo. II. c. 6, for the performance of quarantine, are amended. This act (38 Geo. III. c. 99.) was intitled, "An act to encourage the trade into the Levant seas, by providing a more convenient mode of performing quarantine, &c." Its particular object was to authorise ships and vessels, *without* clean bills of health, to proceed to England, and to do quarantine there, instead of being obliged, as formerly, to perform it in some of the Lazarettos of the Mediterranean. Under the authority of this act, a committee was appointed by the Lords of the Privy Council, to consider and prepare regulations of quarantine applicable to the change of circumstances. This committee consisted of eleven members, G. Baker, L. Pepys, F. Gisborne, A. S. Hamond, Pat. Russell, Jas. Johnston, Gil. Blane, J. Robertson Barclay, Tho. Boone, E. Lee, and J. Green; the first nine physicians, and the two last Levant merchants. They made a report on the 2d of April 1800, consisting of 58 pages, founded chiefly on the 26th

Geo. II. c. 6, the 38th of Geo. III. c. 99, and the quarantine regulations established in the Mediterranean, and particularly at Venice, as detailed in Howard's account of the principal Lazarettos of Europe. This quarantine committee did not think it necessary to enter into any previous inquiry into the validity of the doctrine upon which the regulations, which they were called upon to propose, were to be founded. Taking their validity implicitly for granted, they promulgated an immense and most pernicious system upon an entirely imaginary foundation. Amongst other equally ridiculous, but expensive regulations, they recommended (art. iv.) that a frigate should be fitted up, as an hospital ship, at Standgate Creek, with a compliment of medical men; although, if they had inquired, they would have found that there are seldom any sick of any disease amongst the crews of the ships detained in quarantine; and (art. v.) that a small vessel should be fitted up at St. Helen's Pool for the reception of the sick, ill of the plague; although, if they had inquired, they might have ascertained, from custom-house returns, that no person had ever arrived, in any ship or vessel, at any period of time, in any port of England, laboring under that malady, or was afterwards seized with it whilst in quarantine, or in the course of expurgating goods in the Lazarettos.

After the usual repetition and classification, upon grounds purely arbitrary, of articles susceptible in the first degree, susceptible in the second degree, and not susceptible of contagion, the committee conclude with the following recommendation: "The committee humbly beg leave therefore to submit to the consideration of your Lordships, that it may be advisable to construct (as soon as conveniently can be) a Lazaret on Chetney hill, where land has already been purchased by government for that purpose, upon a plan capable of embracing every object: to which it may be advisable, for the more expeditious determination of quarantine questions in general, to appoint a council, or board of health, composed of competent persons, who should correspond with all British consuls in foreign parts, and to whom all quarantine questions should be referred in the first instance, for their report to the privy council; the whole will then form an establishment becoming the importance of this great commercial country, and such as will effectually provide for the security of the health of his Majesty's subjects, and in regard to matters of quarantine, will place this country in a situation entirely independent of every other state whatsoever ! ! !"

In conformity with this advice, an act was passed (40th Geo. III. c. 80) "for erecting a lazaret on Chetney hill, in the county of Kent, and for reducing into one act the laws relating to quaran-

tine, and for making farther provisions therein;" and sixty-five thousand pounds were granted out of the consolidated fund for carrying its provisions into effect.

This report bears marks of having been principally the workmanship of Dr. Russell, who, as having what is called *practical knowledge* of the fables and traditions of Italy and the Levant, was, as I have said, deemed high authority on the subject. One of the members (Sir Lucas Pepys) was for giving a preference to the excellent Lazaretto on the island of Minorca, then in our possession, having *double walls of thirty feet high!* This proposition, which is in reality perfectly ridiculous, would, however, have been the least unwise, had there been any truth whatever in the doctrine of contagion. It is to be remarked, that although the Privy Council, and the Legislature, thought proper to adopt the proposition of the quarantine committee, respecting the building of a Lazaretto on Chetney hill, they did not think fit to adopt that, which concerned the appointment of a council of health. This would have been, on the part of the Privy Council, to give the staff of authority out of their hands: it would have been a species of political suicide, in so far as that branch of authority was concerned.

The funds already assigned for the purpose of building a land Lazaretto, and for defraying the expense of the establishments, being found insufficient, a farther sum of thirty thousand pounds was granted by an act of the 44th of Geo III. (1804.) This completed 100,000*l.*

On the 12th of March 1805 was passed "An act for making further provision for the effectual performance of quarantine." (45 Geo. III. cap. 10.) This is the last of the extraordinary laws, which have been enacted on this extraordinary subject, as far as relates to the prevention of importation. In conformity with this law, a set of regulations for the performance of quarantine, in order to prevent the introduction of contagion into this kingdom, was promulgated by an order in council, dated the 5th of April 1805, which, with such alterations as from time to time have to the Privy Council seemed expedient, are now in force. But notwithstanding this mass of legislation, and of official regulations, and after the expenditure of probably 200,000*l.* upon a land Lazaret, the idea seems to be now wholly abandoned; for the lands and buildings of Chetney hill were in 1819, after I had proved the absurdity of the doctrine of contagion before a committee of the House of Commons, advertised for public sale, and I have understood actually sold for a mere trifle. This stoppage of expenditure has been one of the good effects already produced by my labors. But, how much wiser would it have been,

to have instituted some inquiry into the validity of the doctrine, upon which such regulations and expenditure were founded, *before* they were actually adopted! I make this remark, because it appears, from some observations of the board of health, appointed at this period, (1805) "to consider and report the measures which it would be proper to adopt, in case the plague or other infectious disease, attended with great mortality, *shall pass the barrier of the quarantine*, and actually appear amongst us," that they were not ignorant of the existence of the doctrines, which I had published, upon this subject, in 1796, in India, and which had been also republished in America, and in various parts of Europe. "*In considering a subject of this kind*," says the Board, in their second report to the Privy Council, "*it is obvious, that we must not risk the lives of our fellow-creatures, through a confidence in any speculative opinions, which want the sanction of experience.*" If the board had taken due pains to investigate the opinions, which they represent as speculative, they could not have avoided perceiving that they were, on the contrary, *conclusions logically deduced from undeniable premises*, whilst the opinions which they have chosen to take for granted, considering them as founded upon *what they call* the *experience*, (meaning the *practice*) of *ages*, are but vague or baseless traditions,—mere inventions of the most barbarous times; and that, whilst, by the practices which they recommend, sickness and death are variously multiplied amongst mankind, the results of the application of the opposite doctrines would be to decrease the ordinary sickness and mortality, to such a degree as to render pestilences comparatively trivial evils. This board was composed of the following members: A. S. Hamond, F. Milman, A. Munro, Lucas Pepys, J. Hunter, H. R. Reynolds, W. Heberden, J. N. Harness, and Jas. Hervy, secretary. Two of these, A. S. Hamond, and Lucas Pepys, had been members of the quarantine committee in 1800. Dr. Russell was, I believe, dead. The reports of the board of health were dated the 30th of April, and the 15th of May, 1805. Their merits, according to the plan which I have adopted, fall to be considered under the following head.

III.—MEASURES FOR PREVENTING THE PROPAGATION OR SPREADING OF PESTILENTIAL CONTAGION; OR LINES OF CIRCUMVALLATION, DITCHES, CORDONS OF TROOPS, SHUTTING UP THE SICK IN THEIR HOUSES, COMPELLING THEM TO LEAVE THEIR HOMES, IMMURING THEM IN PEST HOUSES, AND, IN GENERAL, ALL MODES OF SEPARATION, SECLUSION AND RESTRICTION.

"It would seem as if there was *little observable difference* in the mode of its termination (that of the plague) in cities, where puri-

fication was practised, and where it was not." RUSSELL'S TREAT. p. 282.

Thus, notwithstanding the confidence and solemnity, with which masses of regulations have been obtruded on the world, to prevent the propagation of a nonentity, even those who have most strongly recommended them, are to be found acknowleging, in point of fact, their inefficiency. But in the observation which I have quoted, Dr. Russell is quite wrong. The difference is both great and observable between cities where purification is practised, and where it is not; but it is, *cæteris paribus*, strongly in favor of those places, where no precautions are employed by public authorities, to prevent the propagation of an imaginary *virus*, and in which the doctrine of contagion, in epidemic diseases, is either not known, or not believed, by the people, or by the faculty.

"In the 16th and 17th centuries," says the same writer (Treat. p. 478), "the orders and regulations respecting the infected, seem to have been issued in royal proclamations, or by the municipal officers, in towns; and in the country, by the justices of the peace; but all under the sanction of the king in council. How it was managed in times still more remote," he adds, "does not appear." It certainly does not appear; for this very sufficient reason, that, "in times still more remote," it was not managed at all. The precautions of 1582 are, in respect to England, the earliest we find upon record; and they were not imperative, but simply recommendatory. That year being a year of plague in London, the lord treasurer sent an order to Sir Thomas Blanke, the Lord Mayor, to make a catalogue of all the victualling houses that were infected, to set up publicly, that all strangers resorting to London might avoid setting up, or lodging at those houses; and so to do, from two months to two months. (City Remembrancer, i. 263.) This is the first measure that I have met with in the shape of an official interference in England, concerning pestilence, as presumed to depend upon contagion: and, it is to be remarked, that there was here no compulsion, either in respect to shutting up of houses, or to removing of persons supposed to be infected from their houses, to be sent to lazarettos or pest houses. It was nothing but a simple warning to strangers, to avoid places supposed to be infected; and this appears to have reference, according to the ancient and proper meaning of the word, to "infection" of the air, with which contagion was never until lately confounded. It was not until 1592 that, by an order in council, issued by Queen Elizabeth, sick persons were ordered to be confined to their houses, which appears to have been the first compulsory measure of the kind. (Orders of Queen Elizabeth, in 1592.)

On the 30th of July 1603, being a year of plague in London,

an order in council was issued by King James I. against the infection of the plague, consisting of a number of articles, drawn up with great care. Advice was also published by the College of Physicians, and orders by the Lord Mayor and Aldermen, by direction of the Privy Council. These were republished with very little variation, in the subsequent plagues, in 1625, 1636, and 1665. See certain necessary directions of the College of Physicians; Sundry orders of His Majesty; Select Statutes, &c., London, 1636. An order was also issued, in 1603, by the same monarch, "strictly prohibiting all ecclesiastics, and others, from publishing an opinion that the plague was not infectious, or that it was a vain thing not to resort to the infected." (Orders, Jac. I. Art. 16.)

In 1604, the year immediately succeeding, it was, for the first time, thought proper to support the royal regulations by an express statute. By this statute it is enacted, "that if any person infected with the plague, or dwelling in any infected house, be commanded by the mayor, constable, or other head officer of his town, or vill, to keep his house, and shall venture to disobey it; he may be enforced by the watchmen appointed on such melancholy occasions, to obey such necessary command: and if any hurt ensue by such enforcement, the watchmen are thereby indemnified. And further, if such person so commanded to confine himself, goes abroad, and converses in company, if he has no plague sore upon him, *he shall be punished as a vagabond, by whipping*, and be bound to his good behaviour: but, if he has any infectious sore upon him uncured, he then *shall be guilty of felony.*" Blackst. Com. vol. iv. b. 4. c. 13.

This bill was passed, after some opposition, on the 16th of June, with certain amendments made by the Lords, in exemption of the Universities. Its continuance was limited to the commencement of the first session of the following parliament. But by subsequent acts it was further continued; and, in the 16th of Charles I., (1640) "from thenceforth until some other act of parliament be made touching its continuance or discontinuance."

In 1665, in October, the plague raging in London, a Committee of the House of Commons was appointed to prepare and bring in a bill to supply the defects of that of 1604. It passed the Commons. But amendments being made by the Lords, to which the Commons did not think fit to assent, and the session terminating, the matter dropt, and was never afterwards resumed. Consequently the statute of James I. respecting internal regulations for preventing the spreading of the infection of the plague, remained still in force.

On the subject of the projected bill, in 1665, several conferences were held between the two houses of parliament. What were

the matters agitated in them does not appear from the journals of the Commons: but from the journals of the Lords, we learn that the Earl of Bridgewater, on the 30th of October, reported to the house, "that the committee had considered the bill for making further provision for such as be infected with the plague." Their Lordships added two provisos, and proposed some alterations and amendments, which were offered to the judgment of the house. These provisos consisted in inhibiting pest houses and burying grounds to be stationed near the houses of peers, and exempting peers' houses from being shut up at the discretion of constables. (Russell's Treat. p. 583.) The Commons adhering to their former votes, the affair ended. In coincidence with the provisos here proposed by the Lords, Dr. Mead, at a subsequent period, recommended that the *rich*, who might happen to be *infected*, should be transported *to their country houses*, instead of being sent to Lazarettos; as if contagion, did it exist, would not as readily spread from the rich as from the poor! (Mead's Discourse, p. 99.) In conformity with the same principle, some modern functionaries have considered it quite harmless that they themselves should land, immediately upon arriving in port, from ships, of which the crews have been held bound to perform quarantine, as if they had the privilege of being non-conductors of that contagion, which they imagine others cannot avoid propagating. The doctrine of the original contagionists at Trent was very different. They alleged contagion had a stronger attraction for people of condition than for other persons. But all these modifications had their particular purposes to serve. See also the First Report of the Board of Health of 1805, p. 131.

The act of Queen Anne "to oblige ships coming from places infected more effectually to perform their quarantine," related to the prevention of the importation of contagion from certain places only, and did not include the commerce of the Levant, or comprehend any internal regulations for preventing the spreading of disease. But in January 1721, under the influence of the panic occasioned by the plague of Marseilles, which had just terminated, an act was passed, (7 Geo. I.) intitled: "An act for repealing an act (Queen Anne's) for the better preventing the plague being brought from foreign parts into Great Britain, or Ireland, or the Isles of Guernsey, &c. &c., *and to hinder the spreading of infection.*" This act gave power to remove persons from their habitations, and to make lines about places supposed to be infected. A petition against these clauses was presented by the city of London; and, upon the bill, which was introduced for their repeal, being in the first instance rejected, a spirited protest was entered on the journals of the Lords, by Earl Cowper, and Lords

Bathurst, North, and Grey. At length, in February 1722, an act did pass, repealing the aforesaid clauses of the act of the 7th of Geo. I., "*in as much as*" (according to the preamble of the bill,) "*the powers and authorities mentioned in the said recited act, might be very grievous to the subjects of this kingdom.*"

The arbitrary power of shutting sick people up in their houses, given by the act of James I., and that of removing them by compulsion from their habitations, conferred by the 7th of Geo. I., were equally a violation of the principles of public liberty, and of the British constitution, which would have been unjustifiable if contagion had been proved to exist, and these measures had been proved to be a remedy. Such a despotism no circumstances could justify. But, to enact laws so arbitrary, without previous proof of the existence of the alleged evil, or of the efficiency of the proposed remedy, must be admitted to be most extraordinary legislation.

Previous to 1665, several opportunities occurred of calling into action the obnoxious clauses of the act of James I.; but none since that period. By that law, it was made felony to be found abroad with an infectious (meaning a contagious) sore. What proof was required of a sore being contagious I know not. The constables were, I presume, in the first instance, to be the judges!

In 1805, a board of health was appointed, as has been already stated, in London. This board, agreeably to the instructions of the privy council, presented two reports, founded on the usual assumptions, dated the 30th of April, and 15th of May, consisting of an "outline of a plan to prevent the spreading of the plague, or other contagious diseases." The act of the 45th of Geo. III. cap. 10, and an order in council founded upon it, dated the 5th of April 1805, together with these two reports of the board of health, are the foundation of the regulations of sanitary police now in force in England. They are drawn up principally after the model of those established abroad, of which a description will be found in Howard's "Account of the Principal Lazarettos of Europe."

But neither in the act of the 45th of Geo. III., nor in the order of council of the 5th of April 1805, nor in the two reports of the board of health, of the 30th of April, and 15th of May, of the same year, is it declared that persons shall be taken by compulsion from their homes, and shut up in pest houses. The clauses, conferring this unconstitutional power, as first introduced in the act of the 7th of Geo. I., were, as I have stated, repealed by an act of the following year; and the power only remained of shutting up persons affected in their own houses, as conferred by the act of James I. (1604.) The board of health of 1805, indeed, report,

that, "after the disease has spread, the number of the sick rendering it impracticable to provide adequately for them, while they are dispersed in different parts, or to remove all the other inhabitants from every infected (meaning contagioned) house, it becomes expedient to carry the sick, as early as possible, to some temporary hospital, *unless their situation in life enable them to provide for themselves, without risk to the public, in a manner that shall be satisfactory to the magistrates.*" Besides the desperate nonsense of supposing riches to enable persons to prevent a contagion spreading from themselves, which would spread from the poor, as no law existed to authorise compulsion in this case, the plan recommended could not be carried into effect. The power of removing sick persons, by compulsion, from their habitations, and of immuring them in hospitals, or pest-houses, granted by the act of the 7th of Geo. I., was a measure so perfectly odious, even in idea, that it was, as has been stated, very shortly afterwards repealed. It was never in any instance acted upon in Great Britain, until it was revived, as applied to Ireland, by the act of the 58th of Geo. III., cap. 47, in the year 1818. To justify such a law, it would by no means be sufficient that pestilence should be proved to be propagated by means of a specific contagion: it would be further necessary to show, that all diseases so propagated are necessarily fatal. Previous to the passing of the law for the establishment of fever hospitals, &c. in Ireland, I explained at considerable length, to the various authorities engaged in the investigation, the mischievous nature of such an enactment, and did every thing in my power to prevent this preposterous bill from passing into a law. The event has confirmed the correctness of my reasoning. The failure was complete. In the hope that the authors of this absurd and destructive measure are now so heartily ashamed of it, that they will themselves be the first to propose its repeal, I shall at present abstain from all comment which might be superfluous upon so disagreeable a subject; merely observing, that, notwithstanding repeated, and urgent, and well-founded remonstrances on my part, this law, with respect to Ireland, like all its predecessors, was passed without any previous inquiry into the existence of the evil which it professed to remedy. Its existence was taken for granted, on an authority which, as I have elsewhere shown, was also assumed.[1] On faith alone, have these regulations of quarantine or sanitary laws, for upwards of two hundred years, been allowed, under various modifications, to rest.

We now come down to the æra, at which the validity of the

[1] The authority of the ancients. See my "Reasons for concluding that the doctrine of Pestilential Contagion could not have been known to the Ancients, &c." published in the London Medical Repository for February and March 1823.

doctrine of pestilential contagion was, for the first time in the history of theworld, even partially submitted to a formal, although a delusive, investigation. Upon my return from Constantinople, in January 1816, after having, by actual experiment, obtained practical confirmation in what has vulgarly and improperly been termed "the Plague of the Levant," of the validity of my previous theoretical demonstration of the non-existence of pestilential contagion, I entered into correspondence with, and made reports upon the subject of my researches, to various branches of the administration. This correspondence led to a reference of the results of my researches, by the Privy Council, to the College of Physicians, in 1818; and their reports not being considered decisive of the question, the subject was, early in 1819, referred to a select Committee of the House of Commons. I shall here consider only such parts of the reports of the College of Physicians to the Privy Council, and of that of the Committee of the House of Commons, as relate more immediately to the Quarantine or Sanitary laws. On this subject, the College report, March 31, 1818: "The doctrine of contagion appears to us to be wholly 'unshaken' by any argument which Dr. Maclean has advanced; *at the same time we think it probable that some of the personal restrictions enforced in the establishments for quarantine, might be modified, without risk to the public safety.*" Here the two limbs of the same short sentence are in direct contradiction to each other. If the doctrine of contagion were confirmed, and if the usual sanitary precautions were justifiable and efficient, it could not possibly happen that these precautions "might be modified," by which the college doubtless mean being mitigated, "without risk to the public safety." On the contrary, did the public safety in any degree depend upon the precautions in question, they could not be too rigidly enforced; and in such case, instead of being modified, they ought to be carried to the highest degree of strictness of which they are susceptible. This glaring inconsistency of the College renders their opinion on this point of no value. In another place, I shall more particularly point out the invalidity and absurdity, as well as the unfairness of their reply to the Privy Council, concerning my work on epidemic diseases, as it respects the main question of contagion; intending to confine myself here to what strictly relates to the quarantine laws.

The select Committee of the House of Commons inform us, that "they abstain from giving any opinion on the nature and application of the quarantine regulations, as not falling within the scope of inquiry to which they have been directed" (Report, 4th July 1819). This seems a very inexplicable conclusion. Considering that the College, in their corporate capacity, had declared

themselves of opinion that these regulations might be modified "without risk to the public safety," and that the individual witnesses examined by the Committee, who expressed any opinion on the subject, were equally favorable to a mitigation of them; and more especially, since, as I shall presently show, some part of the evidence adduced would have justified, or rather required, the abolition of quarantine in England, as far as regards our intercourse with Turkey, even if the plague of that country were undoubtedly propagated by a specific *virus;* under these circumstances, and seeing that to ascertain the validity or non-validity, of the doctrine of contagion, in the plague, could have legislatively no result, excepting as it might affect the regulations of quarantine; it cannot but be deemed extraordinary that the Committee should have regarded these regulations "as not falling within the scope of inquiry to which they had been directed." For what other purpose was the Committee instituted? Surely it could not have been for the mere gratification of an idle curiosity that they were to occupy nearly a whole session in inquiring into the validity of the doctrine of contagion in the plague. Legislatively, what possible result could such an inquiry have, besides the confirmation, modification, or abolition of quarantine regulations? Had the Committee, according to their ideas of evidence, i. e. according to the *opinions* of all or a great majority of the physicians examined, found the proofs against the existence of contagion in the plague to be conclusive, would they not have thought it incumbent upon them to have recommended that the quarantine laws should be immediately abolished, as far as related to intercourse with the Levant? Had it, on the other hand, been proved upon evidence equally satisfactory, not only that a specific virus is the cause of plague, but that that virus is of a nature much more active, penetrating, and diffusive, than it has hitherto been represented, or imagined, by any of its partisans, would they not have thought it their duty to have recommended to the legislature to direct an increased activity and extension in regard to the ordinary measures of precaution—*more walls and higher, to shut out larks?* Or, if what the Committee have chosen to consider as the prevailing doctrine had been found to be correct, and if the *virus* of pestilential contagion had been ascertained to have precisely the properties which have been attributed to it, would they not have been bound to declare that the existing quarantine regulations ought, as the best possible code, to be faithfully and exactly maintained? Or, again, facts being adduced, proving that, even did contagion undoubtedly exist in the plague of the Levant, quarantine would, in respect to that disease, still be without an object in England, was it not their duty, as far as regards our intercourse with Turkey,

to have recommended the abolition of sanitary restrictions in this country?

Thus, then, it is evident, in direct contradiction to the terms of their report, not only that the nature and application of the quarantine regulations did "fall within the scope of inquiry," to which the Committee must have been directed; but that they constituted precisely what ought to have been its principal object. Considered in a view to legislation, it is self-evident that the proof of the existence or non-existence of contagion, in the plague, can be no otherwise of consequence than as it regards sanitary regulations. No inquiry into the validity of that doctrine could, upon any other principle, have any result. And such seems to be the impression on the mind of the Committee, when, in the very same sentence in which they make the surprising declaration upon which I have been commenting, they go out of their way to express their unqualified approbation of the regulations, of which they had just declared that "the nature and application did not fall within the scope of inquiry to which they had been directed;" "*but they see no reason to question the validity of the principles upon which such regulations appear to have been adopted.*"

I shall now show, that, instead of this unqualified approbation, which, according to their own principles, the Committee were not justified in pronouncing, they were bound, according to the facts which were elicited in the course of the investigation, to have recommended the abolition of quarantine regulations in this country, as far as regards the intercourse with the Levant, even upon the supposition of the existence of contagion in the plague.

By the uniform silence of history, in that case forming the best evidence; by the testimony of almost all the witnesses examined before the Committee; and even by official custom-house returns, it stands confirmed, that, in the memory of man, not a single person has ever arrived in this country laboring under the plague, and that not a single case of that disease has occurred amongst the expurgators of goods in the Lazarettos. The Levant Company, in their printed orders to their factories abroad, assert that the plague was never brought to England by means of their commerce. Sir James Porter (Observations on the Turks, p. 41.) goes farther. He asserts that the plague was never brought to these kingdoms immediately from Turkey, without limitation to the Levant Company's establishments. This was also confirmed, and brought down to the year 1819, by official custom-house returns from the different outports, published in the Appendix to the Report of the Select Committee of the House of Commons, dated July 4, 1819, of which the following are extracts: ROCHESTER. There is not any record of a case of absolute plague

in any lazarette at this port having occurred, from the earliest period that can be traced, to the present time. PORTSMOUTH. It cannot be ascertained that any case of absolute plague has ever occurred at this port, on board any lazarette. FALMOUTH. The officers at this port are not aware that any case of what is usually called plague, has occurred. MILFORD. No case of absolute plague has occurred at this port. BRISTOL. No instance is on record of absolute plague having occurred at this port, from 1619 to the present time. LIVERPOOL. The officers at this port have not any knowledge of the plague having had existence in any lazarette, or other vessel there. HULL. The officers at this port cannot find recorded in their books a case of absolute plague, in any lazarette, during the last 200 years.—Yet, with all this evidence staring them in the face; the Committee "see no reason to question the validity of the principles, upon which such regulations (those of quarantine) appear to have been adopted."

In this matter there can be no delusion: for, instances of plague, if such had occurred, could not fail to have been ostensibly recorded. What possible object, then, can quarantine have in England, with respect to the commerce of the Levant, whether the plague of that country be, or be not, contagious? Positively none. If it be not contagious, it cannot of course be either exported or imported; and, if it be contagious, its non-importation during an intercourse of three centuries, ships, goods, and persons almost constantly arriving from pestilential places, is a proof that it is incapable of being imported into England. What farther proof can be required that, with respect to the plague of the Levant, quarantine establishments are, even upon the supposition of contagion, superfluous in England? Or, is it proposed that we should wait for three centuries more before we determine the experiment to be conclusive?—It is evident, then, according to the facts proved upon this occasion, that the Committee have not done their duty, in not recommending the abolition of quarantine regulations in England, as far as regards the plague of the Levant. And, if other epidemics had been included in the scope of their inquiry, as ought to have been the case, the absurdity of these institutions, with respect to all of them, would have been rendered equally manifest.

It being clear, that an inquiry into the validity of the doctrine of contagion, in the plague, could not legislatively have any other result than as its refutation, confirmation, or elucidation might affect the regulations of quarantine, the report of the Committee, even if it had been founded on evidence, could not but have been a perfect nullity, in as much as it did not state (for it was thought unnecessary to inquire) whether, or in what degree, these regulations were found

to be efficient for their professed object. That efficiency, like the existence of contagion itself, was implicitly taken for granted. Had the plague been proved to depend upon contagion, as certainly as the small pox, it would by no means necessarily follow that sanitary restrictions would be efficient for preventing the introduction or spreading of the malady. They are found, upon the evidence of the history of epidemics, to be, in fact, wholly inefficient, as in reason they must be inferred to be, for preventing the propagation of pestilence. Upon what grounds, indeed, can precautions, which are obviously insufficient to prevent the occurrence of diseases, as small-pox, which are incapable of affecting the same person more than once, be rationally presumed to be adequate to prevent diseases, as pestilences, which are capable of affecting the same person repeatedly, even in the same epidemic, and the same season? This law of repetition, independently of the circumstance that the proper causes of pestilence are such as are insusceptible of being obviated or controled by any sanitary restrictions whatsoever, render all attempts at such methods of prevention something much worse than ridiculous. The efficiency, or non-efficiency of all such regulations, it was the duty of the Committee, instead of taking it for granted, to have expressly inquired into, even if their conclusion in favor of the existence of contagion had been undoubtedly correct. That it was the reverse of correct, I shall show in its proper place. With respect to quarantine establishments, even if they had been ascertained by the Committee to be efficient for their professed object, (that object being ascertained to have an existence) would it not still have been their duty to inquire, whether they were managed according to strict principles of economy, or whether they might not be equally well, or better conducted, at less expense, and with fewer stations; or, if they had been proved to be inefficient, or pernicious, to have recommended their immediate abolition, even if the existence of contagion had been unequivocally established?—Upon every imaginable ground, then, quarantine regulations did fall properly, and even imperatively, within the scope of inquiry, upon which it was incumbent on the Committee to have entered, if it was meant that their investigation should have any result.

What motives could have induced the Committee of the House of Commons to have formed a series of decisions so very extraordinary, and so little consistent with the evidence laid before them, it is no part of my business to explain. By what process of reasoning persons appointed to inquire into the validity of the doctrine of contagion in the plague, could have arrived at the conclusions, that it is immaterial, or that it is not their business to ascertain whether the effects of quarantine regulations, as the immediate

consequence of that doctrine, be to increase or to diminish the sum total of sickness, misery, and mortality, incidental to epidemic diseases; whether the immense sums annually employed for the maintenance of sanitary establishments, at home and in our colonies, be a necessary or a superfluous expenditure; and whether the perpetual restraints, vexations, and injuries, which such regulations occasion to commerce, navigation, individual intercourse, and the intercourse of nations, be the indispensable results of a salutary precaution, or the deleterious fruit of an imposture and chimera, I confess myself utterly unable to conceive, and have no inclination to conjecture. It is sufficient for me to have shown that their proceedings are, in point of fact, both extraordinary and unwarrantable.

Sanitary Regulations of the Continental Nations of Christendom.

My time, I trust, has been much better employed than in tracing historically the progress of these institutions. They originated, as I have said, in the Venetian states, in the 16th century. Other countries copied the regulations of Venice. The quarantine laws of England, of which I have above given some account, and those of Spain, of the most recent projects of which I am now going to give a short analysis, are improvements upon the ancient codes; which entirely supercedes the necessity of my giving any description of them. The systems of England and Spain (which latter, however, may now be considered as abandoned) are but the embryo errors of other nations grown to a gigantic stature; and, therefore, in their effects on public prosperity, great evils. Whoever wishes to have a more particular history of them may consult Howard's "Account of the Principal Lazarettos of Europe."

Sanitary Laws of Spain.

In 1821, a "Project of an original law of public health, for the Spanish Monarchy," in 207 octavo pages, was published by a commission of public health, appointed by the Spanish government, in 1820, being a collection of all the regulations on that subject that have, since the invention of pestilential contagion, been promulgated in the various countries of Christendom; it is divided into four parts.

The first part treats of the objects of the service of public health, and the authority to which it ought to be entrusted. Its express objects are, 'to prevent the communication to the Spanish dominions, in both hemispheres, of the pestilence of the Levant, that of America commonly called the yellow-fever, and all other pestilential or contagious acute diseases, which may prevail in foreign countries.' This task is proposed to be undertaken by means of a machinery, not very remarkable for its simplicity, of which a general direction at Madrid, composed of nine members, under the immediate direction of the government, is to form the centre, or moving principle. Under these directors there were to be 'juntas of health,' provincial, municipal, and littoral, throughout the land. The two latter were to correspond with the provincial junta; the provincial junta with the general direction; and the general direction with the government. The municipal and littoral juntas were of course to correspond, on sanitary matters, with the mass of the nation. No wonder that Sen. Isturiz, one of the deputies of Cadiz, should have said, on rejecting the project of the committee of the Cortes, which was very similar to this, that 'it would be establishing a sanitary nation within the Spanish nation.' Here, employment at least would be created for a great portion of the people. In times of pestilence, it would require the inhabitants of a whole province to conduct the correspondence necessary in the office of the minister of the interior only. The general direction was of course to have a president, secretary, treasurer, keeper of records, and other officers, to begin with; besides establishments, and suitable honors and rewards. This part comprehends 50 articles.

The service of health is divided into maritime and terrestrial.

The second part, which treats of the maritime service of health, is divided into five titles. The first, in thirty articles, conveys rules for exploring every acute foreign contagion at its source; and treats of bills of health, and of infested or suspected places. The second indicates the means of "observing and pursuing foreign contagion, on the passage of the vessels, persons, or goods, in which it may be transported." It gives directions respecting the manner of keeping ship's log books, and explains how clean bills of health may become touched, and touched bills suspected; and how clean, touched, and suspected bills, may become foul. The third contains 'dispositions and means for *attacking* and *destroying* every pestilential or dangerous contagion (however invisible) which may be conveyed by vessels, persons, or goods, upon their arrival in the ports of Spain.' The principal of these means are a Lazaretto of the first order at Mahon, five of the

second order at Cadiz, Barcelona, Ferrol, Carthagena, and Passages, and a Lazaretto of the third order at every other commercial sea-port town of Spain. This title contains 114 articles.[1]

Title 4 contains 'precautions of sanitary police to be taken by vessels loading and unloading in the ports of Spain, and during the voyage at sea.' It consists of 28 articles, which, among other matters of equal importance, supply directions for preventing the embarkation of rats, cock-roaches, and other insects, and for destroying them. It also creates employment for the faculty, by directing that every vessel having a crew of sixteen persons, must carry a pupil in medicine and surgery, who has attended an hospital at least for one year; and every vessel, having a crew of thirty persons, a physician or surgeon of approved Latin.

Title 5, in 38 articles, describes the penalties to be inflicted on the infractors of the sanitary maritime service—fine—dismissal from employment—three years hard labor—death!

The third part, in 8 titles, treats of the sanitary terrestrial service. The first title, in fifty articles, contains 'rules for ascertaining the appearance or existence of any pestilential malady.' Here we have an enumeration of symptoms. The second title contains 'rules and measures for isolating, restraining, and extinguishing pestilential contagion in infected communities, and for preventing its propagation to the healthy.' It treats, in 72 articles, of the mode of isolating, and *curing* the sick, and of preserving the healthy; of burying the dead, expurgating furniture and effects, and purifying houses; of dispositions relating to persons, aliments, medicines, and police; of the means of preventing the propagation of contagion; of the establishment, government, and operations of Lazarettos of observation, cure, and expurgation; of the rules which ought to be observed in the cordons of these, and of infected communities; and of the expurgation and purification of those communities. *What labor to obviate a chimera!*

Title 3, in 47 articles, treats 'of Lazarettos of observation, *cure*, and expurgation;' and, having brought the sanitary machinery to a due degree of perfection, concludes with talking confidently of '*extinguishing the cruel scourge of pestilential and contagious diseases.*'

Title 4, in 42 articles, contains 'rules to be observed in the establishment and vigilance of military cordons, in an infected population.' *Three lines of cordons!* The French 'sanitary cordon' of 1821-2, will be immortal.

Title 5, in 63 articles, treats 'of the expurgation and purifica-

[1] The five Lazarettos of the second order had been abandoned in the project of the committee of public health of the Cortes of 1822, which notwithstanding was finally rejected.

tion of infected communities:' the means, air, fire, gases, water, and other fluids.

Title 6, in 53 articles, contains 'precautions for keeping communities in health free from the contagion of the infected:'—precautions ten thousand times worse than any possible contagion.

Title 7, in 32 articles, treats of expenditure.

Title 8, in 37 articles, treats 'of the penalties to be inflicted on the violators of the terrestrial sanitary service:' fines—dismissal from employment—imprisonment—death!

The fourth part treats of the public health, or 'rules and precautions of sanitary policy in all the communities of the Spanish monarchy.' Title 1, 'Its objects and first care.' The projectors here manifest a disposition to extend their care to the regulation of matrimony, and of other public institutions. This head is again divided into urban and rural sanitary police. Title 2, in 47 articles, amonst other things, takes cognizance of manufactories. Title 3, in 12 articles, takes cognizance of canals, roads, trees, vegetables, animals, and in general all subjects of rural economy. Title 4, in 17 articles, treats of the 'means of averting *endemic* and epidemic infirmities, and of preventing the propagation of *regular* and *hereditary* contagions!' I must restrain myself from the train of observations to which this very curious title would naturally give rise, or commenting on the nature of the multifarious and delicate functions which it would confer on the general directors.

Title 5, in 36 articles, lays down 'politico-medical rules for the exercise of the art of curing.' It seems difficult to divine the connexion of this title with sanitary regulations. But nothing, it seems, is too great, or too minute for the grasp of the commission. Here they claim authority over every department of medicine.

We now come to the animal creation. Title 6, in 31 articles, contains 'precautions for preventing the communication, propagation, and re-production of the epizooties or epidemics of animals' They too, it seems, are contagious: and rules similar in principle are to be applied to them, as in the case of the human species!

Title 7, in 5 articles, treats 'of the authority of municipalities over the health police of communities, and of the jurisdiction of the municipal and provincial juntas, and of the general direction of the public health of the Kingdom." Every thing centres in the general direction, under the authority of the government. The nine gentlemen composing that direction would, in effect, have an unlimited authority—an unqualified arbitrary power—over the lives and properties of the people. Such an instrument of systematic despotism as these sanitary laws would afford, has perhaps

never yet been witnessed on the face of the earth. Over animals, vegetables, and minerals; over manufactures, commerce, and navigation; over the lives, liberties and properties of the nation, the juntas of health, the general direction, and the minister of the home department, for the time being, would possess an unlimited, and undefined and capricious authority. They would possess the right to kill, burn and destroy, on suspicion. Precautionary measures against a chimera would thus supersede, not only the constitutional laws of the state, but even the first law of nature.

I cannot but figure to myself the surprise which Hippocrates would experience, if he could rise from the grave, in contemplating a machinery of this description, got up for the purpose of *extinguishing atmospheric diseases!* Would he not be apt to think, that persons, who could institute or countenance measures, so completely destitute of reason and common sense, must be much fitter for patients than for physicians?

The preceding account of the project of the commission of government, is chiefly extracted from my exposition to the Cortes on the subject of sanitary laws, section x. The following observations on the project of the code framed by the committee of public health of the Cortes of 1822, are extracted from a critique on that project, which was also presented to the Cortes, and will be found in my "Sketch of Proceedings in Spain, &c."—The commission of government, and the committee of the extraordinary Cortes of 1821, had founded their sanitary codes on the usual belief in the existence of pestilential contagion. But the committee of public health of the Cortes of 1822, feeling that contagion was losing ground, determined to take a much wider range, and to assume a much more extended object for their code of sanitary laws. That object they stated to be "to procure for the people of Spain the highest health, and for Spain the highest salubrity." But to do this "by means of a general direction, or of any other authority, would require of course, besides super-human intelligence on their part, the subjection to the will of that authority of every agent in nature, capable of acting beneficially or injuriously on the body of man, or on the surface of the soil. In order to effect these objects, it would be necessary that the *three* members of the general direction (this committee, in their project, reduced the original number *nine* to three) should be endowed both with complete knowledge of, and complete power over, all the elements of matter—all the operations of mind—all remedies—food of every quality—drink of every species—exercise of every kind—all institutions public and private, even that of matrimony itself—arts—commerce—manufactures—navigation

—medicine—agriculture—the exact sciences—and, in general, every existing branch of knowledge, every public measure, and every act, even the most secret, of every individual. But these three great directors, it seems, notwithstanding the almost infinite knowledge and power, which they must be deemed to possess, in order to the due discharge of the functions thus allotted to them, are not to act, in all cases, according to the dictates of their own judgment; for that might possibly be not quite infallible: but by the unerring and approved regulations contained in the 400 articles of the project of the sanitary code."

This project could not stand the test of a critical examination. Its discussion was first postponed, in June 1822, to another session; and upon its being again presented and read in the Extraordinary Cortes, in October 1822, it was finally rejected by 65 votes against 48. The substance of the debate, upon this occasion, will be given in "A Sketch of Proceedings in Spain, &c." actually in the press. A farther illustration of the subject of the yellow-fever of the Peninsula is also expected, in a work about to be published, by Dr. O'Halloran, who distinguished himself by zeal and intrepidity in the investigation of the fever of Barcelona, and of which report speaks very favorably.

Whether any attempt will be made to revive the rejected project in a modified form, or in what manner the subject will ultimately be disposed of, I have not at present sufficient data to judge; but I feel confident, from the increasing knowledge and love of inquiry, which pervade Spain, that such of the sanitary laws as are still deemed to be in force, will soon be formally repealed; or that they will fall, in consequence of their demonstrated demerits, into disuse and oblivion, even if nothing more should be done to bring them into disrepute.

London, 7, *Salisbury Street*, *Strand*, January 3d, 1823.