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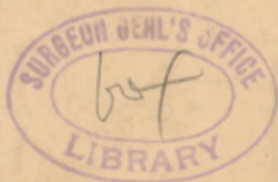
# BATPAXOMYOMAXIA:

A FIGHT ON "ETHICS."

BY

JULIUS HOMBERGER, M. D.,

EYE-SURGEON TO THE TOURO INFIRMARY; LATE ASSISTANT TO DR. SICHEL,  
PARIS; MEMBER OF THE SOCIETE UNIVERSELLE  
D'OPHTHALMOLOGIE, Etc., Etc.



NEW ORLEANS:

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## P R E F A C E .

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I have endeavored to explain in these pages the history of my so-called expulsion from membership of the American Medical Association. I have earnestly striven to connect facts and documents, so that the impartial reader, professional or laymen, may without difficulty understand my position.

The puffs and advertisements which adorn the cover of this pamphlet, are selected from a mass of similar documents, which may be found in the advertising columns of widely circulated papers. They emanate from general practitioners and specialists in the "front ranks of the profession." Their use is so common that if the American Medical Association were to rigidly enforce the letter and spirit of Art. I, Section 3, of the Code of Ethics, its meetings might have to be adjourned for want of a quorum of eligible members.





## TO THE MEMBERS OF THE AMERICAN MEDICAL ASSOCIATION.

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You have supported by word and vote the monstrous proposition to expel me from membership of the American Medical Association, without having inquired into the merits of the case at issue, nor given me time for defence and vindication.

I have no reason to suppose that you were guided by malice, but I assert that you were blinded by prejudice when you sat in judgment.

I have a right, therefore, to accuse you of injustice, and I arraign you before public opinion for dealing unfairly with my professional reputation.

It might be politic to use less strong language; I scorn to do so.

A year has elapsed since you sent forth your verdict. To my friends I have explained its injustice, but I have let my enemies freely use the weapon, which your inconsiderate proceeding placed into their hands, for I hold that a reputation not capable of standing the test of calumny is not worth having.

It was a satisfaction to me that professional acquaintances ripened into friendship during the storm of abuse which thundered from every quarter. It was a satisfaction to find that ophthalmoscope and cataract-knife were stronger than the jealous heralds of a biased verdict!

But that I have outlived those attacks is no reason why I should not perform the duty of holding you to account, and of demanding reparation.

If you refuse to recognize that you have been wrong and hasty, if you lean on the momentary strength of your number, I shall be sorry for having addressed you. But one copy of this pamphlet, preserved for a few years, will be sufficient to condemn before generations to come, the name of every one too headstrong, or too indolent, to satisfy the behests of justice.

Prove to me that I am wrong. Cite me before a court medical, and destroy my evidence. Prove that one word I say is a falsehood, and I stand convicted. But read yourself your arguments and debates on the subject. A letter is read from a so-called prominent physician in New Orleans, inquiring whether I am a member of your Association. I had ceased to be a member in May, 1866. By the blunder of a Secretary, the mistake of a presiding officer, and, in consequence of the short meetings of the Association, this resignation, which can be offered at any time according to the laws of all scientific societies, was first not delivered in time and then referred to a committee, instead of being accepted at once. I, meanwhile, naturally knew nothing of such a thing as referring a resignation to a committee. The resignation of a subject serving his country, might not be accepted, since his service is a duty, but unconditional life-membership of a society is an absurdity. And in 1868, having forgotten the existence almost of the American Medical Association, I suddenly hear that I have been expelled—unheard and undefended.

I think, indeed, that no language would be too strong to stigmatize the unseemly haste and shallowness, the disregard of professional courtesy of which the participants in this wanton offence have been guilty, and I believe it is only just that I should denounce the cowardly devices, the base insinuations, the fantastic falsehoods, invented by avarice and jealousy, to injure my professional character, on the strength of this pretended expulsion from the American Medical Association.

I repeat that I do not think that you were actuated by personal motives when you rushed into the rendering of your verdict. The best evidence of that conviction is this appeal to you, an appeal not for indulgence but for justice.

And that I demand justice only, you may see from the documents which constitute the chief part of this pamphlet. These documents, which I recommend to your impartial perusal, prove beyond cavil that I took advantage **only** of my right to resign from membership after earnest efforts, in fact every constitutional manner of obtaining the reformatory measures indispensable for my interests, had signally failed. They prove that I had, orally, and in writing, announced my resignation in May, 1866. They further prove that advertising in New Orleans was sanctioned by usage; that important operations were frequently reported by the public press; so that, even as a member of your association, my advertisements could be justified by the long-established tendency to advertising among the medical community of New Orleans.

Permit me to recall to your mind the main points of the case. The question before you was not, and is not, whether advertising is a legitimate means of acquiring practice; it is not whether the dignity of the profession demands compliance with your Code of Ethics. On these questions I cannot agree with the general opinion of your association. I have laid down the reasons for which I consider advertising legitimate and proper, and in no way inconsistent with the highest views of professional etiquette, provided, of course, the statements published are in accordance with truth and honesty. You have, however, an undoubted right to disapprove of advertising; but my right to hold a different opinion is equally strong. No one, when I read my report, attempted to refute its arguments. The ethical question under consideration was not decided by discussion but by vote. Satisfied that the exceptional position of the specialist would soon be appreciated, and determined to win the position to which no one of you ever dared to deny that I am entitled, I offered my resignation *in optima forma*. I asked not to be released, I did not request that my resignation be granted as a favor. I requested the Secretary to *announce* my resignation. The reasons for my withdrawal were plain enough, and had been freely given in the American Journal of Ophthalmology, my Report of 1865, and in numerous debates during the sessions of your association.

No unbiased judge can doubt my right to resign; more than that, my resignation was, under the circumstances, the only step consistent with dignity and principle.



All this is abundantly illustrated by every line I wrote, by every word I said in reference to the subject at issue, and, therefore, without fear and free from wrong, *sans peur et sans reproche*, I demand justice and equity, and express a firm hope that you are great enough to say without false shame: We were wrong!

JULIUS HOMBERGER, M. D.

#### REPORT OF THE COMMITTEE ON THE RELATIONS OF SPECIALISTS TO THE MEDICAL PROFESSION.

"Ever since Society existed, Disappointment has been preaching, 'Put not your trust in Legislation,' and yet the trust in legislation seems scarcely diminished. "In their efforts to remedy specific evils, legislators have continually caused collateral evils they never looked for."

The text of our remarks, shall be these two sentences, taken from Herbert Spencer's Essay on Over-Legislation.

Previous to the adoption of the Code of Ethics of the American Medical Association, the sense of professional duties and responsibility was, there can be no doubt, as keen among professional men as to-day. We do not think that there was a physician, who, being at the same time a gentleman, needed the recommendations contained in the first chapter of that code to be written out for him in the shape of paragraphs, seriously telling him, "that he ought to unite tenderness with firmness, and condensation with authority;" "that he shall treat his cases with attention, steadiness and humanity;" "that he shall observe secrecy and delicacy;" "not make too many visits;" "not make gloomy prognostications;" "not abandon hopeless cases;" and other advice which may be well meant but cannot be regarded but as absolutely unnecessary and useless.

Whoever is fit to be a physician must certainly know from the intuitive knowledge of propriety which a gentleman possesses, how to behave himself at the bedside; and only gentlemen can be physicians deserving the name; the idea to inculcate propriety by a code of ethics, voluntarily adopted, to others than gentlemen, is preposterous. Was it ever supposed necessary by the respectable women in the community, to fortify their respectability by publishing a Code of Ethics [and demanding conformity thereto on the part of their virtuous sisters so as not to be confounded with prostitutes? It strikes us as equally absurd that it should be necessary to embody for the government of physicians the common rules of gentlemanly propriety in a code of ethics so that they should not be confounded with quacks!

It might be, perhaps, profitable and timely to expose the puerility of embodying also an article of ten paragraphs on the duties of patients towards their physician, a proceeding about as ludicrous as if there was an Essay there on the "duties of Sandwich Islanders to the Crown of England;" but we refrain, as we are not appointed to criticise the laws of Ethics of the American Medical Association: nevertheless, we desire to show by these examples, and those which we cite hereafter, that from a practical and scientific point of view, that document does not require to be handled with the piety and esteem which some old books, though obsolete, are sometimes entitled to, either for their intrinsic merit, or for the care bestowed by the authors upon their production.

We only therefore allude to the bad taste of articles in which it is laid down as a rule, "that physicians ought to attend gratuitously to physicians, their wives and children;" attempting to define whether and to

what extent vicarious offices should be rendered by one physician to another; the barbarous proposition to refuse consultations with physicians who are not recognized as "regular" by the "Association;" the unnecessary hints given in the chapter on Consultations to behave decently at the bedside, etc., etc., etc.

While satisfied that the American Medical Association will agree with us that all these attempts at legislation are superfluous and practically inoperative, and that we will not be gainsaid, if we utter our belief, that it is not in consequence of the adoption of these rules as a code of laws, that good feeling and understanding between practitioners have improved since their publication, we now beg leave to enter upon the essential subject matter of our Essay, to which the whole of the second chapter has the most intimate relation, but particularly the third paragraph, which reads as follows:

"It is derogatory to the dignity of the profession to resort to public advertisements, or public cards, or hand-bills, inviting the attention of individuals affected with particular diseases; publicly offering advice and medicine to the poor gratis, or promising radical cures: or to publish cures and operations in the daily prints or suffer such publications to be made; to laymen to be present at operations; to boast of cures and remedies, to adduce certificates of skill and success, or to perform any similar acts. These are the ordinary practices of empirics and are highly reprehensible in a regular physician."

It would be an insult, we think, to the common sense of this body to defend before it the right of a physician to pursue special studies. We trust there is no one among you sufficiently prejudiced or ill-informed not to know that the strides which our science has made of late years have been the consequence of some of the best minds in the profession concentrating their thoughts on one particular branch of medical science. We feel that to defend, in the year 1865, the principle of division of labor, would be considered by an enlightened profession to be a ridiculous act of supererogation. It strikes us as equally superfluous to defend the right of a well-educated physician to make use of the results of his special observations and practice; in other words, the right and liberty to reap the fruits of a special study in a special branch can not with a shadow of justice be denied to specialists.

Take from the specialist the right to use every honorable means in his power to extend his practice, and you practically do the same thing as if you would forbid a general practitioner to make his numerous calls in a carriage. Say to a specialist, you have no right to put your name in a newspaper, and in reference to him your law works quite differently, and produces different results, than the same interference produces upon the general practitioner. The latter more or less expects his practice from his immediate neighborhood; he moves there, where the majority of his patients reside, and every family he visits professionally, yields to him a proportion towards his yearly average of income; the specialist, on the contrary, in order to render himself useful to society, in order to advance his reputation and income, must spread his name in wider circles; his reputation must extend over a larger surface: for a circle or community which would yield a splendid return for the services of a general practitioner would suffice neither properly to support a specialist, nor to secure a practice sufficiently large to stimulate his scientific energy.

To this position may be urged the objection that, the specialist necessarily being at the same time a physician of general attainments and knowledge in medicine other than his mere specialty, he may and should in the commencement of his career attend to general practice and gradually devote more and more special attention to some special class of diseases. This idea is radically vicious. For in the first place the cultivation of those branches of medical science which are sufficiently advanced to be practiced as specialties, demands unremitting zeal and



undivided attention on the part of those devoted to them, and faculties which would produce by their exercise splendid results would be dissipated in the routine and drudgery of general practice. Need we cite any examples to prove so plain a proposition? Universal experience has taught us that, with man as with machinery, the more perfect his adaptability for the successful performance of any special function, the less will he be enabled to perform any other. Well does Herbert Spencer say: "An instrument intended to perform the double function of shaving and carving will not shave as well as a razor nor carve as well as a carving knife."

In the second place, it is but fair and proper that specialists should leave the field of general practice to those whose intelligent aid they covet and desire for the purpose of securing a special practice.

It must not be inferred from this that we hold it necessary or even desirable that general practitioners should lend their support and patronage to specialists on condition only that the latter do not interfere with their general practice. We would deprecate any such bargain as undignified and improper. We would not admit that specialists should offer any such petty inducements for patronage on the part of physicians in general practice; but we may safely assert that specialists will not find it to their interest to undertake general practice, and they certainly must always feel that their limited experience does not justify them in attempting to practice indiscriminately.

This brings us to a vital point of our argument. We would most emphatically lay down the proposition that no physician has a right to attend any case, unless he is satisfied that he is able to do it full justice. A village doctor may set a limb, he may perform tracheotomy, or operate on a case of vesico-vaginal fistula, precisely for the same reason that the captain of a ship in an emergency cuts off the leg of an injured sailor, no surgeon being present or readily procurable; or a physician may be justified in doing his best for such patients whose circumstances forbid them to resort to the most competent authority, but the moral right to attend to patients who apply for relief does not extend any farther. If a blind man applies for a delicate operation on the eye to a practitioner in whom he has confidence, that confidence is only then justified and rewarded if the medical adviser indicates to the inquirer the safest mode of gaining his eyesight; and it is an abuse of this confidence, and breach of the trust reposed in him, if the physician undertakes the operation if not fully competent for the task. It cannot be denied, then that it is the duty of the practitioner to send the patient to a specialist in order to discharge his obligations to his patient.

It is hardly necessary to point out the various circumstances which may make the existence of competent specialists a source of comfort and a blessing to the general practitioner, for, fortunately, the special branches have already borne such brilliant fruits that we need not fear their being ignored by the scientific physician and surgeon. We must rather turn now to the most important of the points at issue, the question of advertising as a means of publicity.

The New York State Medical Society (we may hope not after any thing like mature reflection, for a deliberate enactment of illiberal propositions is hardly to be expected from a body of intelligent scientists,) has discountenanced and prohibited the advertisement on the part of a specialist of his residence in a medical paper, and has even gone to the length of objecting to the indication on business cards of the specialties, which practitioners may choose to follow. The Boston Medical Journal, on the other hand, thinks those advertisements in medical journals, which, in Boston, are sanctioned by usage, not only justifiable, but even advantageous to professional and public interests. But no orthodox paper or orthodox practitioner has hitherto been found who dares to assert the right of the physician to advertise wherever he



pleases, and as much as he pleases, in the mistaken belief that advertising in itself is derogatory to professional dignity. When we ask why, we are answered, because it is known that the advertisers of medical commodities are generally men without education, mountebanks and pickpockets in disguise. How absurd! For the same reason the respectable merchant might give up advertising because would-be merchants every day try to get money by pretentious announcements. The auctioneer who sells thousands of pieces of goods of all kinds should cease to announce his sales because Peter Fank, next door, sells brass watches for gold chronometers, and advertises his sales. A mining company conducted by a score of men of untarnished reputation, should abstain from advertising the sale of their stock, or refrain from giving any public notice of their existence, because a bubble company, with a lot of bogus names, or a set of adventurers at its head, attempts to extract, by means of the public press, money from the pockets of the ignorant. Because Mr. Snow, the prophet and medium, or Mrs. Hatch, the celebrated spiritualist, invites the "believers" to attend a discourse on Sabbath evening, the Right Rev. Bishop Potter and the Rev. Mr. Beecher evidently tarnish the dignity of the body clerical by allowing the advertisements of their sermons to be published in the very same paper and in the very same column!

You see here to what incongruities leads the establishment of illogical laws. Because imposters illegitimately and improperly use one of the most glorious and beneficial results of the art of printing, the inestimable advantages of public advertisements by means of the daily journals, you lay down as a law that on account of such perversion, the same instruments must not be used for good and legitimate ends. It is obvious that an advertisement containing a true representation of the commodities which a member of the community has for sale and exchange, cannot be considered in any way but legitimate, while it is equally clear that a misrepresentation must reflect discredit on its author.

When we examine the reason why prejudices which are so clearly demonstrable to be prejudices, should have taken such firm hold and be so deeply rooted in the minds of an intelligent class of the community, a class which, from the nature of their studies, should be the strongest exponents of liberal opinions, we find that they have their root in an hallucination with which physicians have flattered themselves, namely, that the nature of the services of a medical man differs essentially from all other services rendered by members of the community to each other.

Why the medical profession should believe that the service which they offer to the public—advice—is distinguishable in its nature from other services, is difficult to understand. A physician gathers his knowledge of disease as an engineer gathers his knowledge of the laws of mechanics, or an artist his knowledge of esthetics. They sell to their clients, patients, or patrons those special inferences which their general knowledge enables them to draw. They are paid according to the value of their services. Such transactions the public justly considers to be strictly commercial. But the profession believe that the patient owes them, even after the fee is paid, an eternal debt of gratitude. There is no reason that such a belief, nourished as it is by illusion and conceit, should any longer be upheld.

There is no reason why the laws of free trade should not be applicable to medical services, as well as to all others. The plea that the public must, in its ignorance, be protected against quacks and empirics, is no more valid than the laws which in despotic countries protect the people from liberal newspapers and "dangerous" religious dogmas; laws which require the baker and butcher and carpenter to have passed an apprenticeship and journeymanhood before he has the right to make bread, or shoes, or tables.

Whoever sells bad commodities, whoever sells them at too high

a rate, must, as experience has shown, invariably be beaten and supplanted by the competition of those who sell good commodities at a reasonable rate. Now, therefore, if there is not sufficient superiority in the advice of an experienced and competent physician over that of a quack and empiric to guarantee a better success to the former, then there is no occasion to warn the public and protect the public from the practices of the latter, a proposition which certainly would not be endorsed. But if, as we may safely assume, the practical results of scientific medicine and surgery are sufficient to ensure a success to the scientist which the quack can never obtain, then there is no valid argument which can be advanced to prohibit the practitioner of medicine, as well as the specialist, from proceeding with a view of securing practice in the same way as the dealers in commodities or the vendors of other services. We have already alluded to the fact that the interests of the general practitioner are different, and we would have a practical demonstration of this fact, if to-day it would be declared legitimate for a medical man to advertise. The general practitioner would not avail himself of his right, because he knows that it is necessary for him only to establish his reputation within a small circle; he knows that only a limited number of patients can make use of his services, because it is almost impossible for a patient to employ, as a regular physician, one who resides from him even the distance of a few miles. We will admit that it is already different in some extent, in the case of the surgeon. He also draws his patients from long distances, and it might be urged that an oculist, aurist, or a specialist in the diseases of the chest or of the womb, can establish his reputation in the same manner as a surgeon. Charlatans, who resect jaws and knee joints, tie the carotid artery, or perform staphyloraphy, do not exist, as immediately fatal effects would too clearly expose their ignorance; while those who attempt to cure cataracts by eyewaters or needle operations, or deafness by taking out fictitious polypi, consumption by blowing medicated steam in the mouth, and hypertrophy of the womb by cauterising its neck, are innumerable, and because their manipulations so closely imitate to the eye of the inexperienced the operations of the regular practitioner, that many of the public, accustomed to seek for celebrities in the daily prints, and unaware of the existence of a higher authority than that of the "advertising quack," must needs believe, after having been deceived, that there is no help for them. But it is not necessary to dwell on all the disadvantages which the unphilosophical legislation of the "Code of Ethics" has fostered and created, and, unless abolished, will continue to engender and to perpetuate. If we ask you whether quackery has increased or diminished, it will unanimously have to be declared that humbug and imposition were never carried to a higher pitch than at the present moment; that the consumption of patent medicines is on the increase; and if we inquire whether the social influence which physicians enjoy or ought to enjoy, has increased, whether it is sufficient for one of the profession to say that he is a physician in order to impress every one with the certainty that he is dealing with a gentleman, if we were inquire for an answer to this, we are afraid candor will foree the admission that the title of Doctor is too frequently prostituted to insure regard by the mere fact of being possessed.

Homœopathic and Eclectic Colleges have spread in spite of innumerable—perhaps even unwarrantable—accusations from the members of the American Medical Association, and the legislatures of the different States have never been ready to recognize the influence and rights of the "regular" medical profession. We would therefore in vain seek in that direction for any beneficial results of the Code of Ethics.

Did you expect by means of the Code of Ethics to elevate the dignity of the profession? Confess yourselves disappointed, and if the profession stands higher than it did twenty years ago, admit that your law on advertising did not produce that effect! Did you anticipate that it would



annihilate quackery? Then look at the columns of our newspapers and candidly state that you have been mistaken; that, as Herbert Spencer says, you have in your attempt to remedy a specific evil, the low state of professional dignity, caused a collateral evil in the unrestricted and uncontrollable spread of imposition and quackery in all its forms! Nay, you have done worse; you have not only not prevented quackery, you have not only not protected the public from imposition and injury at the hands of quacks, but your Code of Ethics has had the inevitable effect of protecting quackery by leaving it the free and uninterfered-with monopoly of the public press. You have said to the regular physician and specialist: If you avail yourself of the public press to announce to the community the achievements of your scientific attainments, and the success of your treatment or operations, we will read you out of the profession; and that same prohibition and threat were equivalent to saying to the charlatan: "Now is your time to ply your profitable but dishonorable calling, gull the public by advertisements inserted in the daily journals by the yard, and we will carefully watch and guard your interest by preventing any advertisement of a respectable physician or specialist from entering into competition with you."

Up to the present time specialists have not been very numerous, and the time that has elapsed since some of them have been bold enough—for it was boldness in the face of stubborn and unreasoning opposition—to be specialists, and to attend to their specialty exclusively, dates back but a few years. Within a few more years they will form a strong minority, nay, they may, in the larger cities at least, even be in a majority. What will be the necessary consequence of an increase in their numbers if the profession continues by legislation to interfere with their interests? Depend upon it, that we do not make the demand unadvisedly or inconsiderately for the recognition of the right of the specialist to advertise. The specialists have more at stake, and are more interested to preserve the distinction between the scientific physician and the quack than general practitioners can be. If quack-eye-and-ear-doctors, clap doctors and abortionists are a disgrace to the profession at large, they are much more so to scientific specialists, the latter being in a greater danger to be confounded with them, than the members of the profession at large. Suppose we would for a moment admit that the medical profession in general might put down quackery by its influence in the legislative bodies of the country, or by act of Congress, would it then not be the duty of the profession immediately to rally and to carry through the measures necessary to effect that end; especially if they hold specialties and specialties in sufficient esteem to deem them worthy of the effort? If they do not do so, is it not an insult to every specialist, as such inactivity would show that the profession neglected the interest of and repudiated those upon whom at the same time it thinks proper to impose laws. But as we have already stated, it is likely that the influence of the whole profession would not suffice to carry such laws through our legislative halls, as instances innumerable have proved the insufficiency of professional influence in legislation, or at least have proved that the gold of non-professional purses weighs heavier in the balance of Minerva, than the humanitarian arguments of medical reformers, and at all events it is certain, that many years would have to elapse before adequate laws could be enforced throughout the whole of the United States.

What we would ask, is not a vigorous pursuit of lobbying in all its details, but simply that you abolish the rules which in your wisdom you have created twenty years ago, and abolish your prohibitions against advertising, and we are convinced that the natural laws of competition will work out the end desired by us all; the abolition of quackery. Medical men in this country have, though medical practice is virtually open to all, attained a fair average of knowledge and skill, and may with pride be compared to the physicians and surgeons in countries where examinations



and certificates without end are requisite to procure a license for practicing; druggists in this country, without State examinations, know how to put up prescriptions as well as in France, England or Germany, and find it, without the occasional visits of a body of supervisors of drugs, to their interest to keep good preparations. Bankers and business men are as honest as in Europe, though they cannot be imprisoned for debt, and may escape payment of money they owe by a number of dishonest practices; clergymen are as learned as in Europe, without examination and obligatory education; bakers bake bread equally well, and shoemakers make as good shoes, though there is no law requiring the proving of capacity before making an attempt to bake bread or to make shoes.

It is certain that there are many among the profession who will doubt the possibility to throw quacks out of employment by competition. Those will say that the public wants to be deceived; that the greatest liar among advertisers will attract the greatest number of patients, that scientific physicians will never have the cunning of the charlatan requisite and essential to make advertising profitable; that scientific and honest men, when they stoop to advertise, will soon be impregnated with the mercenary spirit characterizing the irresponsible advertiser, and lapse into the same meretricious practices. Of those we would ask, whether the achievements of modern surgery, ophthalmology, gynecology, etc., are not brilliant enough to impress every one, even if soberly and simply stated, with admiration and esteem? Whether they actually believe that medicine is so fictitious a science, that success must be always a boast, and that lying is necessary to attract the public? Whether in medical matters the old adage that honesty is the best policy must be reversed to be true? Whether, as it is undeniable that advertising attracts patients, it is not more certain that a specialist who advertises and thus attracts many patients, can more easily afford to be candid and honest than those who get but scanty practice without advertisements, and thus may have, in their effort to earn a living, almost an excuse for hiding the truth?

It would be vain to attempt to answer these questions otherwise than by the stale arguments which a conservative but unreasoning spirit has opposed to liberty of the press, liberty of speech, free trade, and innumerable other reforms which have been achieved, or partially achieved, within the last century, and which will one day be so completely and fully recognized that a more enlightened age will wonder at the comparatively slow pace of their progress and condemn their opponents as we do now the persecutors of religious dissenters, the instigators of the "holy" inquisition, and the upholders of errors without number which were considered the indestructible framework of society during the feudal ages!

With great justice there may be adduced another forcible argument in favor of the right to advertise. There is no influence which paralyzes energy to such an extent as the impossibility to exercise faculties for want of material to exercise them on. Take from the artisan the wood, stone, or paper necessary for his work, limit the supply of cotton to the spinner, impoverish the painter so as to make him unable to buy colors and canvas, leave the sculptor without marble and the musician without his instrument, and his faculties and energy, however brilliant they may be, will suffer from the want of being exercised. What to these material, colors, marble, piano, or violin, is to the practitioner the patient. Prevent him from having patients, and he will lapse into inactivity, while nothing will stimulate his energy, his scientific zeal and thirst for knowledge, like a continuous demand upon them. The general practitioner who enters the profession may settle in a remote village, and secure a practice without difficulty, only perhaps not a very remunerative one, while the specialist, who must select a large city, is again aggrieved by the working of your Code of Ethics, which has been framed without regard and esteem for him—as the framers of the Constitution of the United States forgot the interests and rights of the negro.

The Code of Ethics was drawn up at a time when scientific specialization of medicine was so much in its infancy, that those who presumed to devote themselves to a special class of diseases on the pretence that they had discovered new processes of curing the "ills that flesh is heir to," were looked upon, perhaps properly, with disfavor and distrust by the profession. You have therefore, by means of your code, attempted to combat what you feared would eventually flower into charlatanism. But continuing your code formed under circumstances no longer existing, continuing prohibitions originally directed against charlatans, against a class of men whom you must confess to be scientists, and who, by their achievements, have wrung from you tributes of praise and admiration, is a proceeding which must prove as inoperative and injurious, as would be the attempt to govern society of the present day by a system of laws applicable to a state of barbarism.

The only position which the profession could take against the specialist insisting upon the recognition of the rights claimed by him in this report, would be the following. General practitioners would say to specialists: "You have a right to exist, and to follow your pursuits, because as specialists you are enabled to heal certain classes of disease with better success than we are. We admit your right, we approve of its exercise. You want to guard your interest by abolishing our Code, but we believe that you would only injure yourselves, and consequently the whole profession. You complain that your interests are infringed upon by laws which were launched against quackery, and which you believe to have been abortive, and have only injured you. You insist upon our incapacity to destroy quackery by the means that we have adopted. You attack our opposition to what we deem the doubtful right of advertising on your part. Let us try to conciliate our interests and views, and compromise the matter. If you waive your right, or what you deem such, we will richly compensate you. We will exhibit our willingness to help you in your pursuits. We will use our influence to forward your interests. Every patient who applies to us with a disease of the eye we will send to an oculist, every case of syphilis to a syphilidologist, every case of disease of females to a gynecologist, and so on. We will thus by our united patronage enable you to put down quacks in the manner you propose, by competition. We are able to send you, by canvassing your merits, as many cases as the quack now attracts by his advertisements. We will solemnly pledge ourselves to leave the field of legitimate specialism to specialists, if specialists will pledge themselves on their part to abide by our code, to respect what we choose to call dignity, and to avoid what in our opinion is detrimental to the social standing of our profession."

Observe that we do not assume that you are prepared to speak to specialists in this manner, because we know that you could not be induced to relinquish the treatment of what you call simple diseases of the eye, the womb, or the nervous system; because we know that it is often impossible to define the limit between general disease and special disease. But should you even go so far as to abrogate your right of attending to a disease of the eye, ear, throat, womb or chest; should you, in order to bind us to abide by the Code of Ethics, make a proposition so undeniably against your interests, we would emphatically deprecate any such arrangement, because in our opinion it is not in conformity with the dignity of specialists to accept it. Such a new law would within a short time work as detrimentally to your interests as the Code of Ethics now works against that of specialists. You cannot be deprived of your right to treat whatever case you think yourselves able to do justice to; and that you should send those patients, whom you cannot or dare not take under your care, to specialists whom you know to be competent, instead of leaving them to the searching of newspaper celebrities, is simply a matter of justice, but not a compensation which can be held out to induce us to compromise. And besides it is of paramount importance that specialists



should not be mere *protégés* of the general practitioner nor dependent on him for patronage, but simply competitors pursuing a similar calling, circumscribed within narrower limits. An arrangement such as the one supposed would make specialists entirely dependent on the profession. Your patronage would be accorded to those of their number whom you would like best, and to those who would force themselves upon your notice. The personal dignity of specialists would suffer more in this manner than by advertising their cards in every newspaper. And finally, it would not by any means abolish quackery by competition. The public would misinterpret your intentions. Physicians would appear to have formed a Trades-Union against the great men of the eighth page of the newspaper. The quack would thrive and flourish in spite of the Protective Association, and not fail to take the air of a persecuted genius, who cannot succeed in inculcating the advantage of his new system upon an "obstinate, old-fogyish and illiberal body of men." This being already a dodge resorted to by the advertising fraternity, how much more would such a charge assume credibility in the eyes of the community, in the face of what would seem an organized opposition to "the great medical inventions and discoveries of our age."

And now, gentlemen, concluding our plea for the abolition of that part of the Code of Ethics animadverted upon, we beg for our views your earnest and careful consideration. We do not expect that propositions so startling and radical should be accepted by your body without considerable opposition and debate. We know well the clogs and hindrances which conservatism has ever laid in the path of reform. History has furnished us with examples too numerous and too recent to be lightly passed over or forgotten, that truth however plain and undeniable, that rights however sacred and just, cannot force their immediate acceptance in the face of moss-grown prejudices and vested interests! But it is useless to attempt to organize resistance to reform, the correctness of the basis of which must be admitted by the very men who oppose its introduction! Laws and rights, the poet says, are transmitted like an hereditary disease from one generation to another, and what the poet paradoxically proclaimed years ago, the history of the last few decades has splendidly vindicated as an eternal truth.

The great thinkers and social reformers of our time have directed their attention to thousands of questions, and achieved reform in matters innumerable; but the basis of their efforts was always the restriction of law within its proper sphere—the administration of justice. The abolition of the corn laws, the gradual abolition of international restrictions of trade, the emancipation in Ireland, the abolitions of slavery in Russia and the United States, the freedom of the trades and abolition of the guilds in Germany and Holland—all these glorious results of the collective experience and wisdom of two thousand years are based on the recognition of the principle, *that every man has a right to be free, and that being free he is capable to work his way and to achieve his ends in the best manner, if laws, created with a view, as has been cleverly said, to guard by present wisdom against future folly, leave him unfettered and untrammelled.* Give to the specialist, gentlemen, the right to exercise his faculties and to find a market for them, and be assured he will not only be able to keep up his dignity without an ethical guide, but he will also, by his scientific knowledge, according to the law of competition, irresistibly throw out of existence that spurious article and sham of service, the advice of the quack! Give to the specialist his freedom and he will seek out for himself the most expeditious road to fame and fortune, as general practitioners have always done, and in the exercise of this freedom he will no longer feel, as heretofore, that his association with the profession is a source of limitation and restriction of his legitimate rights, but he will show that he feels it a duty to himself, and to the generosity of the noble and honorable profession with which he is associated, and which



frankly accorded to him his rights, that neither he nor the profession shall suffer by the slightest sacrifice of the true dignity of the scientist and gentleman!

JULIUS HOMBERGER,  
*Chairman of Committee.*

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#### HISTORY OF THE REPORT AND LETTER OF RESIGNATION.

This report was presented by myself as Chairman of the Committee in question. My fellow-members, the late Dr. Worthington Hooker, Dr. Bainbridge and Dr. Horatio R. Storer, having refused to sign it, the American Medical Association resolved to lay it on the table as a minority report and not to print it in the transactions. It was published in the July number of the New York Social Science Review, 1865. The subject, however, was referred to another committee, of which Dr. Henry I. Bowditch, of Boston, was the chairman. So illiberal and unfair had been, in my opinion, the treatment of the subject under consideration during the debates in Boston, 1865, that I resolved to send in my resignation at once. Several members of the New York Delegation, however, thought that since the question was not decided until the newly appointed committee would have reported in Baltimore, in the following year 1866, I would not be justified in withdrawing without hearing the report by Dr. Henry I. Bowditch. I could not deny the justice of this remark and withheld my resignation, though almost certain that a general practitioner would not be able to settle the points satisfactorily. I went to the meeting in Baltimore to hear Dr. Bowditch's report. My fears were realized. The gentleman from Boston advocated the obsolete views of the Code of Ethics. I saw that a philosophical investigation of the merits of the subject according to the laws of social science, could not for years be expected from a body like the American Medical Association. I saw no hope whatever to advance the adoption of those radical measures which constitute, in my opinion, the only means of successful reform. I had personally become unpopular for having been the advocate of distasteful measures and propositions. I am now convinced, more than even then, that the time is not far when the medical profession will universally adopt the views which I feel proud of having first boldly proclaimed. I consider it a mistake now that as a stranger, in a position so very unlike that of the American general practitioner, I attempted a crusade against what is the necessary consequence of the American mode of medical education and scientific development. But in Baltimore, in 1866, when after the reading of Dr. Bowditch's report, I reached the platform disappointed in finding that I had been preaching to deaf ears; meeting with distrust and opposition, where I had expected to convince by straightforward argument and logical acumen, I felt differently. I stood on the platform apparently quiet, but deeply agitated. I accused the association of unfairly dealing with me. I said that I had been

entitled to a careful investigation of the subject; that my report ought to have been printed just on account of its startling radicalism; that it was unjustifiable to refer the matter to another committee instead of settling it by argument. Unable, I said in closing my remarks, to fight without the hope of victory, and protesting against the treatment I had received, I would now retire from my gladiatorial experiments and cease to consider myself a member of the Association.

The medical papers, assailed me then vigorously. What I had said was misrepresented, and I was glad afterwards that I had cautiously sent in my resignation in writing. I was resolved on my return from Europe to settle in New Orleans, and to follow my own views on questions ethical in procuring the extensive practice to which I have a right to consider myself entitled. I was anxious, however, not to violate the rules of a society to which I might still be held to belong.

This is the letter addressed to the Secretary of the American Medical Association, on the second day of the meeting at Baltimore, within a few hours after the remarks cited above had been uttered on the platform. It is the best proof that even the most fastidious stickler for form could not accuse me of the violation of a code against which I had so earnestly protested and to which I had so decidedly renounced allegiance:

RENNERT HOUSE,  
BALTIMORE, May 3, 1866. }

WM. B. ATKINSON, M. D.,

*Secretary American Medical Association:*

DEAR SIR—Will you be kind enough to inform the proper officer or officers of the American Medical Association, that I have resolved, in order to avoid continual fruitless discussion, to resign my membership.

The manner in which my report last year, as well as my remarks generally, have been received, are a proof to me that this course on my part is due at the same time to the harmony of the Association and to my own dignity.

I remain, sir, your very obedient servant,

JULIUS HOMBERGER.

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EXTRACT FROM REPORT OF COMMITTEE ON MEDICAL ETHICS.  
(TRANSACTIONS OF 1866.) REMARKS ON THE  
MERITS OF THE REPORT.

In regard to the second subject referred to the Committee, viz.: the resignation of Dr. Homberger, the undersigned regrets to say that from the record of last year's proceedings, to which the secretary refers, he can gain little that is exact. On page forty-four is the following:—

"A communication from Dr. Julius Homberger, of New York, expressing his desire to resign from the Association, was presented by the Permanent Secretary, who stated that it had been received by him on the



evening of the last day of the session of the Association last year at Baltimore, after the final adjournment. After discussion, it was finally referred to the Committee on Medical Ethics."

The only inferences one can draw from this record are, viz.: that Dr. Homberger resigned his membership of the Association two years ago, which, for some reason unknown, was not accepted. Second, Dr. Homberger's communication was referred to the Committee on Medical Ethics.

As the undersigned has never seen that communication, he feels doubtful as to its precise terms. Nevertheless, as this Association has never claimed the right to hold any member bound *always* in his allegiance, and as there is nothing in our rules to prevent a man, for reasons best known to himself, from retiring from our body, the undersigned feels disposed to recommend the acceptance of Dr. Homberger's resignation as the easiest and most profitable way of deciding the question.

What other course can be pursued so wise as this, viz.: to let Dr. Homberger retire quietly with, perhaps, a note from the Association, if thought best, that the course pursued by any member of the Association contrary to Section 3, Article 1, of that part of our code referring to "the duties of physicians to each other and to the profession at large," is entirely inconsistent with honorable membership.

This remark naturally brings up the much vexed topic of the propriety of advertising at all. And as the undersigned had the honor to state definitely his views in a previous report upon that special subject, he forbears to enlarge at present any further than to say that he proposes a resolution herewith appended, embodying his precise views in reference to Dr. Homberger's case.

*Resolved*, That the resignation of Dr. Julius Homberger, of New York, be accepted, and that all further consideration of him or of his peculiar methods of procuring practice be indefinitely postponed.

Respectfully submitted,

HENRY I. BOWDITCH,

APRIL 30, 1868.

For the Committee on Medical Ethics.

The letter of resignation, it will be seen, though sent and delivered on the second day of the meeting, was not received in time to be read. If this be true, and I have no reason to doubt it, it simply shows that the arrangements for the dispatch of business were imperfect; and it would be unjust to hold me accountable for the carelessness of the Secretary of the American Medical Association.

The report states that the American Medical Association never claimed the right to hold "*any member always bound in his allegiance.*" The double announcement of my resignation, was, therefore, sufficient to cancel my membership, and the reference of the subject to the Committee on Medical Ethics was a mistake of the presiding officer, for which to hold me accountable, would be preposterous.

The Chairman of the Committee on Ethics having been unable "to gain anything that is exact" from the proceedings of 1867, and unacquainted with the tenor of my letter of resignation, concluded that it was proper to grant my withdrawal, permitted himself, however, to indulge in a fling at what he pleases to term "my peculiar method of acquiring practice."

In 1862, this gentleman, Dr. Henry I. Bowditch, presented to Congress a memorial on the reforms necessary in the ambulance system of the



United States Army. Will he be kind enough to imagine that a fellow-physician, unacquainted with his character, had then hinted that this memorial was an advertising dodge, "a peculiar method of acquiring practice?" Such a proceeding would have been unjust and unfair, but not more so than Dr. Bowditch's insinuation that selfish and mercenary motives were at the bottom of my agitation of the subject of advertising.

From these statements it may be easily seen that Dr. S. D. Gross, the President, Dr. Henry L. Bowditch and W. B. Atkinson, the Secretary, are indirectly accountable for nearly all the mistakes and errors into which the members of the association have been led when my case was judged.

I hold that it is a sacred duty which they owe me to use every effort to induce the Association to retract every word that has been said against me during the debate on my resignation, and to make to me the *amende honorable* which I claim as a right.

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#### DISCUSSION AND VOTE ON MOTION TO EXPEL. REMARKS AND EXPLANATIONS.

This report of the debate on the subject of my resignation is copied from the N. Y. Medical Mirror, the minutes of the meeting in the Transactions being less complete. I have been informed from various sources that it is substantially correct:

Dr. John L. Atlee moved the reconsideration of the vote which referred the following resolution to the Committee on Medical Ethics.

"Resolved, That the resignation of Dr. Julius Homberger, formerly of New York, be accepted, and that all further consideration of him, and of his peculiar methods of procuring practice, be indefinitely postponed."

Dr. Sayre moved that the name in question be stricken from the roll of this association. In support of his view he referred to Dr. Homberger's peculiar views, as set forth in a minority report to the association, meeting at Boston, Mass.; in this report, he substantially advocated the privilege on the part of specialists to advertise both in the public prints and through other sources.

He also read a letter from Dr. Mitchell, of New Orleans, which corroborated the statement that Dr. Homberger was an extensive advertiser in the newspapers.

Dr. E. Lloyd Howard, of Maryland, objected. Dr. Homberger's name ought not to be stricken from the roll on the accusation of a single individual, unsupported by other authority. He maintained that his case had been imperfectly investigated, and therefore moved that the following be substituted:

*Resolved*, That the matter be referred to the Committee on Medical Ethics.

Dr. R. D. Arnold, of Georgia, objected, to any such reference. The issue must be squarely met. The proof that Dr. Homberger had violated the Code of Ethics was abundant, not to say overwhelming. Some definite action should be taken by the Association in vindication of its dignity, and that speedily.

Dr. H. R. Noel, of Maryland, said that the Association should first purge itself of members who were guilty of advertising directly or indirectly, and referred to individual instances in the public prints. He also

read the indorsement of a dentifrice, by a distinguished professor and permanent member.

Dr. Grafton Tyler, of the District of Columbia, excepted to the last instance, as a breach of medical ethics. It was one of those questions about which men might honestly differ. According to his interpretation of the code, it was hardly to be regarded as a violation.

Dr. B. J. Raphael, of Yew York, thought that undue importance was being given to the matter, and that no doubt Dr. Homberger would be well pleased with the agitation. *Up to the time, however, when he offered his resignation, he had never transgressed the established usages of the profession.* Had the resignation then been accepted, much trouble might have been avoided. He, therefore, moved his expulsion.

Dr. Davis reviewed Dr. H.'s relations to the society, and said the real question was: Shall a member who defied its rules be permitted to resign! This was last year referred to the Committee on Ethics, who reported the resolution. He thought the simplest plan to get rid of him and his humbugs was to accept his resignation.

Dr. Palmer, of Michigan, took the ground that no one could by his own act cease to be a member, and was of the opinion that Dr. H. should be expelled.

Dr. Howard wished to be understood as being no advocate for the alleged transgressor, but as desirous of entering his protest against hasty legislation.

After some further debate, chiefly regarding the parliamentary disposal of the matter, Dr. Homberger was ordered, by a decided vote, to be expelled.

These are the arguments of the leaders in the debate which resulted in my expulsion; thus a scientific body "vindicates its dignity." Ignorance of the facts of the case and logical incongruities are displayed in almost every sentence.

Dr. Sayre tries to make my Report of 1865 a point of accusation, though the holding of any views, how heretical soever, form a recognized and indisputable parliamentary privilege of the members of any deliberative body. Dr. Raphael, after admitting that up to the time of my resignation I had never transgressed any established usage and regretting that my resignation was not accepted in time, moves that "therefore" I ought to be expelled. By what singular process of ratiocination this wonderful 'therefore' may be justified I am at a loss to know. Dr. Davis wrongly assumes the question at issue to be whether a member defying the rules shall be permitted to resign? He wants, however, the Association to "get rid" of me by allowing my resignation. If he had been informed of the facts, he would have known that I "got rid" of the Association in 1866.

An unfavorable light is thrown on the proceedings of the Association by the fact that the voices of those who pleaded for fair dealing and calm judgment were not convincing and powerful enough to carry the day. Against prejudice, however, and defective logic, "even Gods would fight in vain;" and thus my consolation must be the firm belief, that in the end at least, that truth is stronger than error.

Whatever, therefore, may be the final decision of the American Medical Association, I know that I need not be afraid of the verdict of those whose respect is more than a compensation for the injustice of the multitude!





### CODE OF ETHICS—Art. I, Sec. 3.

"It is derogatory to the dignity of the profession to resort to public advertisements, or public cards, or hand-bills, inviting the attention of individuals affected with particular diseases; publicly offering advice and medicine to the poor gratis, or promising radical cures; or to publish cures and operations in the daily prints or suffer such publications to be made; to allow laymen to be present at operations; to boast of cures and remedies, to adduce certificates of skill and success, or to perform any similar acts. These are the ordinary practices of empirics and are highly reprehensible in a regular physician."

(From the N. O. Times, Jan. 24, 1867.)

#### UNIVERSITY EYE AND EAR CLINIC.

The Faculty of the Medical Department of the University have established an Eye and Ear Clinic in the East-wing Building, corner of Common and Baronne streets and placed it under the management of \* \* M. D. Entrance to Clinic on Baronne street. Patients prescribed for and operated upon without charge, every Wednesday and Saturday, from 2 to 3 o'clock.

(Translated from the *Epoque* of October 18, 1868.)

Cures are the best recommendation of the practitioner, and the number of those of Dr. \* \* is infinite. He is an oculist of the most elevated order; the admirable results he obtained are due to profound science, based on great experience. Many voices are loud to render him this homage; the voices of those to whom he gave sight, after they had thought it was lost forever. He is at the same time a savior and a charitable, generous man; no poor man ever appealed to him in vain. We fulfil an agreeable duty in recommending to him those who suffer. They cannot apply to any one more competent. He also has often said: *fiat lux*, and there was light.

In the daily papers those interested may look for advertisements and cards, which might be formed by an enthusiast into a collection of historical interest. I should be happy to contribute to such an enterprise a unique specimen of an advertisement in my possession.

It is a tin sign, in a rough wooden frame, and was carried from 1859 to 1866, on the breast of a half-blind colored citizen. It reads thus:

#### NOTICE.

This is the man that lost his sight in this city in 1849; was operated upon by Dr. \* \* in 1858, and restored to partial sight. Please patronize him. Persons are requested not to pass any counterfeit bills on this man. Boys caught stealing will be severely punished. All citizens knew him when he peddled with a box to his back.

\* JOHN COTILLION.

It is only just to say that John Cotillion, at the request of Dr. \* \* , had the name rubbed out in ——— 1868.