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*With the Compliments of the Author.*

# MEDICAL LEGISLATION.

BEING THE

*Annual Address before the State Medical Society.*

BY

NICHOLAS SENN, M. D., PRESIDENT,

OF MILWAUKEE.

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# MEDICAL LEGISLATION.

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Medical legislation has always been a perplexing subject to the state and the medical profession. Laws regulating the practice of medicine have been established by almost every well-organized government from an early date to the present time. Changes in the form and requirements of such laws became necessary from time to time to adapt them to the existing condition of medical science, and the facilities for obtaining a knowledge of the same. Restriction and regulation in the practice of medicine have been exercised by autocratic and democratic forms of government; they can, therefore, not be considered as infringements upon the liberties of the people, but must be regarded as a part of general legislation, the latter having for its object the protection of life and property, and the preservation of health. The little republic of Switzerland, with its model form of government, probably exacts higher attainments from its practicing physicians than any other country in the world.

The object of medical legislation should be to protect the educated physician, to sustain the honor of the profession, and to guard the people against the impositions of ignorant pretenders. As this subject is now attracting well-merited attention in this and other states, I have deemed it appropriate to call your attention, on this occasion, to the history of medical legislation, at the same time alluding occasionally to the educational advantages and social standing of medical men at different times.

The organization of the medical profession is the gradual growth of the wants or necessities in the various localities, without any preconcerted or consistent plan. As a rule, the highest standard of medical education, and the most stringent restrictions in the practice of medicine, have at all times existed among nations of the highest degree of civilization, and endowed with the most perfect form of government.

During the infancy of nations medicine constituted a part of religion, and its practice a religious act. Medicine and religion are closely allied, outgrowths from the same noble desire to benefit mankind. The early priest, animated by a sense of duty and love, aside from his sacred duties ministered to those of his charge who suffered from accident or disease. Medicine became a science and a distinct profession as soon as civilization had advanced sufficiently that man was led to inquire into the mysterious structure of his own body, and into the nature of disease,—investigations which gradually developed a rational course of treatment. The office of physician appears to have become distinct and separate at an early day.

Sirach alludes to the physician as follows: "Honor to the physician! His knowledge allows him to walk with the head erect, and entitles him to the respect of princes. If you feel sick, pray to God and send for the physician; a wise man does not despise the remedies of the earth."

Among the Hebrews, the Levites acted as priests and physicians. In Egypt, the physicians were all specialists, each one devoting his whole time and attention to the diseases of some particular part or organ of the body. They were classified according to their degree of learning, and received about one-third the nation's income. In India, the Brahmin, or priest, acted also as physician. From early childhood he received a careful theoretical and practical training. Many admirable qualities were required of him: He must be well built, impassionate, sober, affable, true, diligent, earnest, modest, virtuous, and not despise even the doctrines of his enemies. He must be cleanly in his habits, his fingernails must be cut short, and his clothes perfumed. How many of these excellent and desirable qualities can be justly attributed to the physician of the present time? In Persia, the physician had to submit to a practical test before he was permitted to practice. He was required to operate upon three unbelievers; if they all died he was rejected; if they all recovered he entered the ranks of the regular profession, and was allowed "to cut the believers as he may think proper; he may cure by cutting as he may deem necessary." Among the aborigines of this country, the Tla-qill-augh constituted the spiritual and medical advisor. His duties were laborious and manifold. He was not only consulted as priest and physician, but his advice was sought on subjects of the most diverse nature. He commanded the respect of his people, and occupied a prominent position in public and private affairs.

In China and Japan the medical profession has always been overcrowded, from the fact that with the exception of the court physicians, no examination has ever been required to admit them to the practice of medicine. They obtained their limited knowledge by reading their

books, which are quite numerous. In Turkey the same freedom exists to the present day; only the military surgeons are as a rule well qualified, being required to study ten years, four of which are spent in acquiring a preliminary education, and six years in the medical college.

Greece, for a long time the cradle of art and science, and the home of distinguished philosophers, was the first country where ignorance and superstition yielded to rational medicine, based upon scientific principles. A thorough preliminary education in reading, writing, computations, geometry, astronomy, and music was required as a prerequisite to the study of medicine. The temples of Æsculapius, called the Asclepiæons, were the great centres of medical knowledge. They served not only as places for instruction, but as habitations for the sick, and may be regarded as the earliest attempts in the establishment of regular hospitals. The physicians in attendance, called asclepiadæ, instituted a systematic course of medical instruction, embracing three distinct grades. After having undergone a process of purification before admission, consisting in an elementary training in arithmetic, geometry, stereometry, music, and astronomy, the student was admitted to the first grade, called *illumination*, or the study of theorems, logical, political and philosophical; in other words, the study of abstract principles. The next grade was called *inspection*, and had reference to practical training—the study of disease at the bedside. The last stage, termed *coronation*, was equivalent to our graduation. The candidate, after a solemn ceremony, was invested with a crown or wreath, and received authority to practice his profession, and impart his knowledge to others. To pass through these degrees required not less than five years. During the time of Hippocrates, some localities required a certificate of proficiency from some noted practitioner, to enable the applicant to practice medicine, but in most places no such restriction existed. As a natural consequence, the country became infested by innumerable quacks, “against whom the regular physician had no redress, except a superior education, earnestness of purpose, a devotion to his duties, and the confidence of a discerning public.” The excessive competition, the envy, and, most of all, the dishonest practice of the charlatans, so lowered the medical profession in the estimation of the laymen, that by many the practice of medicine was considered a dishonest, disreputable trade. With the exception of a few eminent men, the physicians were not honored, but despised by the people. Hippocrates attributed this loss of confidence to its proper source. He says: “The never-ceasing strife among medical men brings the healing art in discredit among laymen to such an extent that they no longer believe in the existence of this art. In the treatment of acute diseases the practice

among physicians is so varied, that what one adopts as a remedial agent is condemned as dangerous by another."

Sad as this picture may appear, it only reflects to a great extent the condition of things as they exist among us to-day. The same dishonest rivalry, the same satanic jealousy, the same shameful attempt to stain the reputation of a fellow practitioner, are manifested only too often at the present time; perhaps not so openly and directly, but by sly hints and insinuations that can leave no doubt as to their intentions. It is not surprising, then, that we are often estimated and judged by the people in about the same ungracious manner as our predecessors more than two thousand years ago. The blame rests not so much upon the people as upon the profession itself. To remedy this evil, and gain the confidence of the public, we must elevate ourselves and seek to expel from our ranks the element that has during all times dragged the profession into disgrace—the quacks. To these Hippocrates fittingly alludes: "Medicine is of all the arts the most noble; but, owing to the ignorance of those who practice it, and of those who inconsiderately form a judgment of these, it is at present far behind all other arts." "Their mistake appears to me to arise principally from this: that in the cities there is no punishment connected with the practice of medicine, except disgrace, and that does not hurt those who are familiar with it. Such persons are like the figures which are introduced in tragedies; for, as they have the shape, and dress, and personal appearance of actors, so also physicians are many in title, but few in reality."

During the time of Aristotle, the medical profession was divided into three classes: 1. Apothecaries, whose exclusive business consisted in preparing and dispensing medicines. 2. Physicians engaged in general practice. 3. The medical philosophers, who pursued the study of medicine as a liberal science only, without relying upon the practice of medicine as an industrial occupation.

When Greece became involved in a succession of bloody wars with its northern neighbors, it no longer remained the centre of education in the world—a position it had occupied for centuries. The tender plant of art and science which had prospered in its fertile soil, withered from want of care, and was conveyed to Alexandria, where it received the most careful attention on part of the government. The first teachers in the Alexandria school were obtained from Greece. The system of instruction was divided among the four faculties of literature, mathematics, astronomy, and medicine; to these special departments were added. For the purpose of stimulating study and of increasing the reputation of the school, prizes were awarded to the students that distinguished themselves. On one occasion, as a prize was about to be awarded for the best compo-

sition, Aristophanes, the grammarian, pointed to the very volume in the library from which it was copied verbatim. This illustrates how prizes are sometimes obtained. During the early history of the Alexandrian school, dissections were practiced, but were again abandoned on account of an uncontrollable prejudice and superstition among the people; and thus the study of medicine was reduced to a mere department of speculative knowledge.

During the early history of Rome, the medical profession of that city was in a deplorable condition. Physicians occupied such an inferior position in society, that it was considered beneath the dignity of a Roman citizen to become a physician. The sick were attended by slaves. The first physicians of ability came from Greece, and soon established themselves in the confidence of the people. Among the first who became prominent was Archagatus, who was made a citizen of Rome, and was held in high estimation. His career in Rome illustrates well the transient character of public opinion. After he had performed several operations, the results of which did not satisfy the expectations of the people, he was called *carnifex*, and he, with many of his native colleagues, had to leave the country for their personal safety. This new outbreak of animosity towards the physicians was excited by the dishonest practice of quacks, by men who had come to Rome for the purpose of practicing medicine without being qualified, the only object being to acquire wealth. In many instances the people were not only maltreated, but robbed, by these pretenders. This was carried to such an extent that Galen was induced to say, "There is no difference between robbers and physicians, except that the former live in the mountains and the latter in Rome." That the people then were as incompetent to distinguish between the physician and quack as they are now, is evident from what Galen says further: "The public does not call into requisition the best physicians, but those who flatter their whims. Where nobody takes into consideration qualification, in the choice of a physician, but the skillful and ignorant are estimated alike, then each one of them will have in view what yields income with the least exertion."

Medicine again became appreciated by the Romans through the influence of their philosophers, orators and statesmen. The study of philosophy was so intimately associated with that of medicine, that these persons became familiar with it during their pupilage. They learned to appreciate the value of medicine and respect it as an art. Cicero alludes to the profession as follows: "*Licet enim omnibus, licet enim mihi, dignitatem medicinæ artis tueri.*"

Cæsar, for the purpose of encouraging the emigration of educated physicians to Rome, decreed that all who practiced physics in the city

should enjoy the privilege of citizenship. Several of the later emperors conferred important privileges upon the physicians of Rome. Asclepiades, Cicero's intimate friend, instituted a new departure in the practice of medicine which restored public confidence and increased the sphere of usefulness of the healing art. He observed that the principal source of mistrust towards his predecessors arose from their crude and unfeeling practice; accordingly he rejected most internal remedies as liable to offend the stomach, and confined himself mainly to hygienic and dietetic measures.

The medical schools at this time appear to have been private institutions, hence the great rivalry that existed between them. In Athens this spirit of emulation became most apparent among the different schools and their teachers. Among the students the same tendency prevailed. Each student attached himself to his teacher, and made it an object to canvass in his interest. The indigent class of students more especially bent themselves to this low business of recruiting, since, by so doing, they were exempted from class payment, and even received remuneration for their services if they were successful in securing a good supply of new comers.

Although more than fourteen centuries have passed away, surrounded as we are by the graceful influence of Christian charity and the refinement of modern civilization, we observe the same selfish struggle for patronage among the rival educational institutions of the present time. It is not always the best schools that attract the largest number of students, but those that advertise most extensively, that possess money and influence, and that grant the degree after the least amount of exertion, and in the shortest space of time.

The first hospitals were established during the reign of Emperor Constantine. The Asclepians, and other places of pagan worship, were transformed into hospitals and other charitable institutions under the auspices of the Christian church. The Emperor and his mother Helena took an active part in this noble work. In the year 373 Basil erected an immense hospital at Cæsarea called Basilides, which was at that time considered as one of the wonders of the world. Many royal persons in those days acted as nurses, and contributed liberally towards assisting the poor and alleviating the suffering of the sick.

Prior to the consolidation of the empire there existed no laws regulating the practice of medicine. The time spent in studying medicine was not less than five years, as may be inferred from Galen and other writers. At this time most of the medical schools in Rome were under the control of the government; the professors received a stated salary and had the privilege to retire on a pension after twenty years' active service. In the densely

populated parts of Greece and the Roman Empire, it became necessary to appoint a certain number of physicians who were paid a fixed salary for their public services. By a decree of Antoninus Pius the number of these state physicians was limited, in the metropolitan cities to ten, in cities of the second class to seven, and in the smaller cities to five. In Rome one was appointed for every ward. Their duties consisted in attending the poor gratuitously and superintending the educational work in the state. They were held in high esteem and were exempt from many public obligations. They usually served as teachers in the colleges, and examined all applicants for admission into the ranks of the profession in localities where the law made provision for such restriction.

During the early part of the Christian era the clergy again assumed the duties of the physician. Some distinguished themselves as medical writers, prominent among them, Nemesius, bishop of Emesa. During that dark period in history, usually denominated the "Dark Ages," the progress of medical science was arrested. No material advancement was made until Italy became the seat of learning. Dissection of the human body was here permitted for the first time on a large scale, and thus the essential condition furnished which was necessary to advance medical science, and elevate the medical profession above the level of the empirics. A new and bright day began to dawn for science and the profession. The people began not only to appreciate the value of a thorough medical education, but commenced to institute measures to suppress quackery. Roger, King of Sicily, in 1140, decreed a law which compelled every person to pass an examination before he was permitted to practice medicine. A failure to comply with this regulation, subjected the offender to imprisonment and confiscation of his property. Emperor Frederic II. required compliance with the following law regulating the practice of medicine:

1. Any person is entitled to practice in the various departments of medicine, and assume the title of doctor, who has passed a satisfactory examination before the medical faculty at Salerno, and has received permission from the Emperor or his representative. Any person practicing without having complied with these requirements is subject to fine, and imprisonment for one year.

2. Before the candidate is admitted to the examination, he must produce evidence that he has studied logic three years, medicine and surgery five years, and must have practiced one year under the supervision of an experienced physician.

3. The candidate is examined in the therapeutics of Galen, the aphorisms of Hippocrates, and the first book of Avicenna. After having passed a satisfactory examination, he must take oath to be pure in life,

to submit to the laws, to attend the poor gratuitously, and not to share the profits of the apothecary.

Surgeons were divided into two classes. Surgeons of the first class were required to pass an examination before three professors, conducted in the Latin language, in the presence of the magistrates of the university. The diploma was signed by the three professors and the officers of the university, and had attached a notarial seal. Surgeons of the second class passed their examination before two professors, and received a certificate signed by the examiners. This examination was conducted in their native language. Before surgeons were admitted to the final examination, they had to show that they had attended the lectures of their professors, and had studied the subjects pertaining to their specialty, especially human anatomy, for at least one year. They were prohibited by oath from prescribing for internal diseases. Considering the imperfect form of government then existing, and the incompleteness of educational advantages, the above requirements may be regarded as stringent. This law was efficacious in removing quackery and elevating the standard of medical education, as well as the social position of medical men.

The characteristic feature of medical instruction at that time consisted in inculcating a knowledge of ancient authorities, with occasional remarks and explanations on the part of the teacher. The duty of the scholar was to take copious notes and commit them to memory. Latin was the language among educated men, and became the language in the universities.

In the year 1588, the university in Frankfurt-on-the-Oder received unlimited control to regulate the practice of medicine in the city and in its vicinity. The faculty passed an act by which no person was allowed to perform the function of a physician unless he had been promoted to the degree of a Baccalaureus. This degree preceded the degree of Doctor in Medicine. If the baccalaureate degree had been obtained in another university, the applicant was required to pay to the faculty eight gold-pieces, whereupon he received a license to practice.

The medical departments of the universities in Frankfurt and Königsberg were each conducted originally by two professors, one giving theoretical and the other practical instruction. In 1683 the substance of the law regulating the practice of medicine in Königsberg read as follows: No person shall practice medicine unless he has received the degree *Medicinae Doctoris* in the manner prescribed by law. In smaller cities no such high degree of proficiency shall be required, but all who intend to practice medicine must pass a satisfactory examination before the faculty, and obtain a certificate to that effect. As the power to grant licenses rested solely with the faculties of the universities, they not unfrequently conferred them

upon persons not properly qualified, but for the sake of pecuniary considerations. Repeated endeavors on part of the government, as well as public opinion, proved utterly futile in arresting this abuse. This compelled the government of Prussia in 1725, under the reign of Friedrich Wilhelm I., to appoint state boards of examiners, whose duty it was to examine and license all candidates. Such a board of medical examiners was appointed for each province, and consisted of two physicians, two surgeons, and two apothecaries. These boards had to examine and license all surgeons, apothecaries, and midwives. In small places, where no physician resided, the surgeons and apothecaries were allowed to prescribe simple remedies, but were not permitted to resort to active drugs, as purgatives, emetics, emmenagogues, narcotics and mercury. Physicians who had graduated at any of the universities in the kingdom had to pass another and more rigid examination before the central board in Berlin, which, if the examination was satisfactory, issued a license to practice. This new regulation exerted a potent influence in elevating the standard of medical education throughout the entire kingdom. In 1868, the German government, for reasons difficult to explain, again vested the universities with the power to confer licenses. Two examinations are now required, both conducted by members of the same faculty; the first, if successful, entitles the candidate to practice; the second, if satisfactory, secures for him the degree *Medicinæ Doctoris*. That this new system is not operating satisfactorily is evident from a general expression of dissatisfaction, and Germany before long will again be forced to resort to the old plan of establishing independent boards of medical examiners.

Years ago, the study of medicine consisted of a routine memorizing of the teachings of ancient authors. It was a mechanical process, devoid of an independent process of reasoning and thinking on the part of student or teacher. To-day, "Medicine is a science which has man, as a compound of matter and mind, for its subject; and an infinitude of substances derived from the animal, vegetable and mineral kingdom, for its instruments." The study of medicine has become more comprehensive from year to year, necessitating a division of labor. Instead of two, as was formerly the case, every well organized medical college has now at least ten professors. The enlarged scope of study has correspondingly increased the labor on the part of the student. Many not essential branches have been erased from the curriculum. Philosophy has been gradually abandoned, and natural history reduced to a minimum; less stress is placed upon a classical education. Theoretical instruction has yielded to practical demonstration. Shorn of all non-essential branches, the objects for study are so numerous and varied that it is impossible for the student to obtain a thorough knowledge of them all. All that can be

required is a knowledge of the general principles. Even the final examination by which the student's fitness to enter the ranks of the profession is measured, must be limited to the most important and practical questions. The student can only lay the foundation,—the physician must erect the structure of medical knowledge, by unwearied study and close observation. A vast amount of knowledge is not always a prerequisite to success. The physician must have energy and tact. A brain burdened with a weight of information on diverse subjects, can in many cases not apply itself to the practical task. Modern medical education consists in acquiring a knowledge of the structure and function of the human body in health and disease, and applying this knowledge at the bedside. The teacher and student are no longer the worshippers of ancient authors, but are constantly pursuing new thoughts, theories and experiments leading into the still unknown regions of our art. The spirit of the age—investigation and discovery—is manifested in no department of science more conspicuously than in medicine. Philosophy and theory must succumb to facts—facts ascertained by repeated observations and demonstrations.

Regular clinical instruction was inaugurated in Venice in 1517. The city government ordered that two physicians should visit the hospital at an appointed hour, and should give to the students practical instruction at the bedside. The same plan was adopted at Padua. This new field of study proved so attractive to the students that in 1796 the professors made complaint to the authorities that the students neglected to attend their lectures; whereupon clinical instruction was transferred to the regular professors. The catalogue of the University of Königsberg announced a course of clinical instruction in 1790. Since that time the European schools have made this the most prominent feature of medical instruction. The large hospitals of the metropolitan cities furnish inexhaustible material for clinical instruction and the pursuit of practical anatomy.

In England the medical profession is divided into three classes, more or less distinct: the physicians, surgeons and apothecaries. The physicians practice medicine exclusively, or in connection with obstetrics; the surgeons, strictly so-called, are confined to operations and the treatment of surgical affections; the apothecaries combine the occupation of pharmacist, physician, obstetrician, and often the surgeon, under the name of general practitioners. Only those are entitled to the name of physicians who have graduated in a British or foreign university, or have become licentiates of the Royal College of Physicians of London. The charter of the College of Physicians of London provides that that body can prevent any one, who has not submitted to its examinations and received its license, from practicing medicine as a physician in London,

or within seven miles of that city, and may even enforce its privileges by fine and imprisonment against any person who fails to comply with its regulations. In England and Wales, beyond the limits just mentioned, the only legalized physicians are the licentiates and extra-licentiates of the College of Physicians, and the licentiates of the universities of Oxford, Cambridge, and London. Extra-licentiates are those who are permitted to practice only beyond the limits of London and its vicinity. They undergo a different and probably less strict examination, and are required to pay less than one-half the diploma-fee demanded of the licentiates. Although practice may in a legal sense be thus limited, nevertheless, the graduates of Scotch and foreign universities have for a long time been admitted as licentiates by the college; graduation is in reality sufficient authority to practice. The surgeons proper do not seek a diploma in medicine, and have no special designation to distinguish them from other members of the community. To the eminent surgeon it is obnoxious to be called "doctor." No one can practice surgery, or assume the title of surgeon, who is not legally entitled to it. Such authority is generally obtained from the Royal College of Surgeons of London, whose certificate of membership, given after a certain specified course of instruction and a successful examination by the college, is everywhere received as sufficient guarantee to practice. The apothecaries or general practitioners have to serve an apprenticeship of five years; they must have attended three courses of lectures during the winter sessions, and two during summer sessions in some recognized school, and must have attended clinics for a year in some hospital containing one hundred or more beds, before they are permitted to examination before the London Society of Apothecaries, who grant all licenses to this class. They do a general business, similar to that of the country physicians in the United States. It seems to me that the time has come when this distinction between members of the same profession ought to be abandoned as a relic of the past, and all who minister to the sick and suffering should be united in one great body, measured by the same standard, governed by the same rules, and enjoying the same rights. This done, the interests of the profession, the advancement of science, and the welfare of the public will be promoted.

In the infancy of our own country the medical profession was modeled after that in England. The early physicians came from Europe, and more particularly from England and Holland, and brought with them the habits and customs of their respective countries. They were generally well educated, able men, who not only commanded the respect of the people, but were often entrusted with responsible political positions. The early settlers were so intently occupied with clearing away the

forest, establishing industries, and developing the commercial interests of this new country, that medical education was neglected. The limited number of well educated medical men made it necessary for others to supply the demand for medical assistance. Many of the missionaries sent here from Europe, received a limited medical education, and served in the capacity of minister and physician in sparsely settled districts. At the time of the Declaration of Independence about three millions of people lived in the thirteen states, and they were attended by three or four thousand practitioners, of whom not more than four hundred had received a regular medical education.

During the colonial existence of our country it was customary for students to become apprenticed for a term of three to six years to a practitioner, whose duty it was to give detailed and regular instruction in all departments of medicine. The student in return had to do a part of the work in the office; prepare medicines, cup, bleed, extract teeth, assist in operations, and, during the latter part of his apprenticeship, attend patients under the supervision of his teacher. Many of these students became successful practitioners without having entered a medical college; few attended more than one course of lectures. The object of college instruction was not to supersede but to supplement the work of the preceptor.

The early American student, if he went abroad for the purpose of acquiring a more complete medical education, attended in preference at Leyden or Edinburgh, Boerhave being in the former, and Cullen in the latter city, the great centre of attraction.

That the colonies became infested with quacks at an early date is evident from the language of Smith, in his History of New York: "Few physicians among us are eminent for their skill; quacks abound like locusts in Egypt, and too many have recommended themselves to a full and profitable practice and subsistence. This is the less to be wondered at, as the profession is under no kind of regulation. Loud as the call is, to our shame be it remembered, we have no law to protect the King's subjects from the malpractice of pretenders. Any man, at his pleasure, sets up for physician, apothecary or surgeon. No candidates are either examined or licensed, or even sworn to fair practice."

The first medical college in this country was organized in 1765, by Drs. Shippen and Morgan, and was made the medical department of the University of Philadelphia. This institution, after having undergone many changes in its plan of organization, has continued to exist to the present time, and is now known as the Medical Department of the University of Pennsylvania. Previous to 1810, seven colleges had been established, and during that year had an attendance of 650 students, while

the population of the states numbered 7,239,881. From the year 1875 to 1876, there were 64 medical colleges in active operation, with 6,650 students, and an entire population in the states of nearly 40,000,000.

The early teachers were usually graduates from European schools. The plan of instruction, and the requirements for admission and graduation, were modeled after those schools, only that the greater part of knowledge was obtained in the preceptory office, the time spent in college being shorter. The schools conferred two degrees—bachelor and doctor of medicine. The requirements for a bachelor's degree were an apprenticeship with some respectable practitioner of two or more years, and attendance upon one course of lectures; for a doctor's degree, three years' office study, and two courses of lectures. The study of medicine was then less comprehensive than now, and consequently required less time and fewer teachers. The medical department of Dartmouth College was for many years successfully conducted by a single professor. Since the reorganization of the University of Pennsylvania, in 1792, until recently, no preliminary examination has been required for admission by the colleges. Previous to 1792, the importance of a preliminary education was appreciated, and various measures were adopted to secure a fair standard before the student was permitted to enter upon the study of medicine. The New Jersey State Medical Society, which was organized in 1766, desirous of elevating the standard of medical education, required that "the apprentice must be refused unless he has a competent knowledge of Latin, and some acquaintance with the rudiments of Greek, and will serve not less than four years, one of which may be spent abroad, and pay one hundred pounds proclamation money, as apprentice fee."

Laws to prevent quackery and protect the regular profession, were enacted at an early date. The General Assembly of New York, in 1760, passed the following law for this purpose: "Whereas, many ignorant and unskillful persons in physick and surgery, in order to gain a subsistence, do take upon themselves to administer physick and practice surgery in the city of New York, to the endangering of the lives and limbs of their patients; and many poor and ignorant persons inhabiting the same city, who have been persuaded to become their patients, have been sufferers thereby; for preventing such abuses for the future, Be it enacted, by His Honor the Lieutenant Governor, the Council and the General Assembly, and it is hereby enacted by the authority of the same: That from and after the publication of this act, no person whatsoever shall practice as a physician or surgeon in the said city of New York, before he shall first be examined in physick and surgery, and approved of, and admitted by one of His Majesty's Council, the judges of the Supreme Court, the King's attorney-general, and the mayor of the city of New

York for the time being, or by three or more of them, taking to their assistance for such examination such proper person, or persons, as they in their discretion shall think fit; and if any candidate, after due examination of his learning and skill in physick and surgery as aforesaid, shall be approved and admitted to practice as a physician and surgeon, or both, the said examiners, or any three or more of them, shall give, under their hands and seals, to the person so admitted as aforesaid, a testimonial of his examination and admission." A failure to comply with this law subjected the person to a fine of five pounds. A similar but still more strict law was enacted by the General Assembly of New Jersey in 1772. This law required all persons who intended to practice medicine to be examined and licensed under the supervision of the Judges of the Supreme Court.

In 1799, the Medical and Chirurgical Faculty of the State of Maryland was incorporated. Power was conferred upon it to elect by ballot twelve persons of the greatest medical and chirurgical abilities in the state, who were called the Medical Board of Examiners for the State of Maryland. It was the duty of this board "to grant licenses to such medical and chirurgical gentlemen as they, either upon a full examination, or upon the production of diplomas from some respectable college, may judge adequate to commence the practice of the medical and chirurgical arts." A supplementary act, passed in 1801, required all graduates of medical colleges, as well as those possessing no diploma, to submit to an examination before this board, and obtain a license, before they were authorized to practice. Every person thus licensed, by virtue of the license, became a member of the state medical society.

The territorial government of Orleans, in 1803, approved a law regulating the practice of medicine. It provided that every person intending to practice must have a diploma, and submit to an examination before a board consisting of four physicians or surgeons; if he was found qualified, he received a license from the board. In 1816, when the territory had been admitted into the Union as the state of Louisiana, the first law was repealed and one substituted which provided for an examining board consisting of four physicians and one apothecary, appointed by the governor. A diploma did not exempt from examination by the board, and was not received as an equivalent for a license. The examination of the candidates had to be conducted in presence of the mayor of New Orleans and two aldermen. In 1817 the law was changed, two examining boards being created in place of one, and ten years of continued practice was received as sufficient authority to practice, and exempted from further examination. In 1820, the law was still further amended so that graduates from medical colleges were licensed without further examination, pro-

vided the applicant could furnish the board with satisfactory evidence of a good moral character. In 1840 the law was again changed to the effect that the plan of organization of the boards was changed, and only the graduates from the Medical College of Louisiana were exempt from examination by the boards. In 1852, all previous legislative acts regulating the practice of medicine were repealed, and a law substituted by which any person with a genuine diploma or certificate from any chartered medical college or society in the United States, whether the same be allopathic or otherwise, was allowed to practice medicine, surgery and midwifery without any additional license. The law required at the same time that the person intending to practice medicine, unless he had been in active business for ten years at the time it was passed, should go before any justice of the peace and make affidavit that he is a graduate from some incorporated medical institution in Europe or America; the justice to record this affidavit in the office of the register of deeds, and to give a copy to the person making the affidavit.

The legislature of Delaware, in 1822, passed a law creating a board of medical examiners composed of twelve members, whose duty it should be to examine, and, if found qualified, to license all persons who practiced or intended to practice without a diploma. These persons had to furnish evidence that they were twenty-one years of age, had studied medicine three years, and had attended at least one course of lectures before they were admitted to the examination. Graduates were licensed by the board without examination.

The Medical Society of the District of Columbia was incorporated by an act of Congress in 1819, with power to appoint a board of censors composed of five members, whose duties were very similar to those appointed by the Delaware State Medical Society.

In 1817 the legislature of South Carolina enacted a law providing for the establishment of two boards of medical examiners in the state. Their duty was to examine, and, if found qualified, to license persons intending to practice medicine without a diploma. Non-compliance with this law subjected the offender to a fine in a sum not exceeding \$500, or imprisonment for a term not exceeding two months. This law was in active operation until 1838, when it was repealed.

In Georgia a law was in existence from 1826 to 1835 by which a penalty of \$500 was provided for all persons who should practice medicine in that state without a license from the board of medical examiners.

Alabama, in 1823, had five boards of medical examiners, each consisting of three members elected by a joint vote of both houses of the state legislature. They were located in different sections of the state, and their duties were similar to those of the medical boards of South Carolina. Mississippi

had laws regulating the practice of medicine similar to those of South Carolina and Alabama, from the time it became a state, until 1834, when they were repealed.

In New York the power to license to practice was conferred upon the state and county medical societies at the organization of the former in 1806. No person was admitted to an examination before these bodies unless he was twenty-one years of age, and had studied medicine for a period of not less than three years with some respectable practitioner. In 1807 a tax of five dollars a month was imposed upon any person who practiced medicine or surgery without a license. In 1812 the fine was increased to twenty-five dollars for each and every offense. In 1843 the law was amended so that that part which related to fines was repealed.

Ohio, Tennessee, Indiana, Michigan, and most of the New England states, during the early period of their existence, had laws regulating the practice of medicine somewhat similar to those of the state of New York. In most of these states the boards of censors of the state and county medical societies, had the power of examining and licensing candidates. In some instances these boards consisted of the faculty of a medical college in the state, and an equal number of censors elected by the state medical society.

It will be seen that during the first half century of our national existence every state, with the exception of Pennsylvania, North Carolina and Virginia, had enacted laws restricting the practice of medicine. So potent was the influence brought to bear by the quack element upon the law-makers of the country, that during the years from 1840 to 1850, nearly all laws regulating the practice of medicine were repealed by the legislatures of the several states. For twenty years almost every state was without efficient medical legislation. The result has been an overflowing of the country with quacks of every description. This element has increased to such dangerous proportions, that during the last six years efforts have again been made in different states to arrest its further growth by legal enactments. The legislatures of Kentucky, Missouri, Vermont and New Hampshire, passed laws for this purpose in 1875; Texas in 1873; California in 1876; and Illinois in 1877. The California law prescribes that the State Medical Society of California, and the Homœopathic and Eclectic State Medical Societies, shall each appoint annually a board of medical examiners, consisting of seven members. The duties of these boards consists in ascertaining the genuineness of diplomas or certificates presented to them. If found genuine they issue a license to the applicant which entitles him to practice medicine and surgery in the state. All examinations of persons not graduates or licentiates, were made directly by these boards until Dec. 31, 1876; after this

date they could confer license to practice only to such persons as were in possession of a diploma or license from legally chartered medical institutions in good standing. These boards are independent of each other, but no candidate rejected by one board can apply to another, and not to the same board until one year after such rejection. The boards have the power to revoke their license for unprofessional conduct. All licenses and certificates of revocation must be registered with the county clerk of the county in which the person resides. Traveling quacks are required to pay a license of one hundred dollars a month. Any person practicing medicine or surgery without having procured a license from one of the boards, shall be deemed guilty of a misdemeanor and shall be subjected to the penalties provided therefor.

In Illinois every person practicing medicine and surgery is required to appear before the state board of health and present his diploma for verification and genuineness. If it is found correct the board issues a certificate to that effect, and such diploma and certificate are conclusive as to the right of the holder to practice. If the applicant have no diploma he has to pass an examination before the board of health of a practical and elementary character, and if found qualified he receives a certificate in accordance with the facts. Two kinds of certificates are issued, viz.: for graduates, and for candidates who have been examined by the board. The board furnishes the county clerks with a list of persons who have received certificates. Every holder of a certificate must record the same with the county clerk of the county in which he resides, the books in which such records are made to be kept open for inspection. The board may refuse certificates to applicants guilty of unprofessional conduct, and revoke certificates for like reasons. Itinerant quacks are required to pay a monthly tax of one hundred dollars. Any person convicted of practicing medicine or surgery without having complied with the law is subject to a fine of not more than five hundred dollars, or imprisonment in the county jail for a term of not more than three hundred and sixty-five days.

From the foregoing laws it will be noticed that, with but few exceptions, a genuine diploma has been regarded as sufficient evidence of qualification, and if the law made provision for a license, this was conferred without any further examination. As colleges constituted thus not only institutions for instruction, but had at the same time power to confer upon their graduates authority to practice, it is not difficult to infer that the never-ceasing rivalry between them had a direct tendency to lower the standard of medical education. This evil was recognized at an early period, and measures were adopted to remedy it. At a meeting of the State Medical Society of New York, in 1839, the following

resolution was reported by a committee and, after a free discussion, was adopted: "*Resolved*, That the right of teaching ought to be separated as much as possible from the power of conferring degrees or licenses." The following year, a committee, consisting of Drs. Manly, Beck and McCull, submitted to the society an able report bearing upon this same subject, in which occurs the following language: "But in view of the diploma becoming depreciated by the rapid establishment of new schools, it may well become a question deserving serious consideration, whether at no distant period the rights of teaching and licensing should not be disjoined. An incidental difficulty to the adoption of this suggestion, is the fact that we are surrounded by institutions in other states, which might or might not follow it, and thus our own students induced to desert our own colleges."

In 1837 a petition, signed by one hundred and twenty-six physicians, residents of the city of Philadelphia, was presented to the legislature of the state, for the purpose of establishing an institution for examining candidates and conferring degrees independent of the business of teaching. The charter was not granted and the project failed.

Dr. N. S. Davis, at a meeting of the New York State Medical Society in 1844, brought this matter again prominently before the profession; the discussion which followed resulted in a call for a convention of delegates from all medical colleges and societies in the United States, which was held in New York in 1846. The direct object for which this convention was called has never been realized, but the American Medical Association, which is the outgrowth of that meeting, has exerted a potent influence in elevating the standard of medical education throughout the land.

During the last ten years representatives from the different medical colleges have formed an association of their own, and have held several meetings for the purpose of adopting a uniform standard of requirements. A few of our colleges have adopted a longer term of study, a graded course of instruction, and a more rigid test at the final examination for the degree, but the majority of them continue to repeat two courses of lectures to mixed classes, and to issue diplomas to half-educated young men at the end of two years. This vicious practice will continue just so long as a diploma is regarded as sufficient authority to practice. You may as well attempt to reverse the motion of the earth, as to expect that a uniform standard of requirements will be adopted and carried out faithfully and honestly, unless the power of licensing is transferred to independent boards of medical examiners. This has been the experience not only in this country but all over the world. Small institutions that vegetate on the income derived from the students are afraid to raise the standard, for fear

the students will desert them and seek institutions offering greater advantages. Under the present system the authority to license is vested in the small college, located in some obscure country village, equally as well as in the schools in our metropolitan cities, supplied with all the modern improvements for imparting theoretical and practical knowledge. Many of our students, for obvious reasons, attend those schools where the authority to practice medicine can be obtained in the shortest time, and at the least possible expense. If the licensing power were vested in an independent board of medical examiners, the rivalry between the different schools would cease to be injurious; the noble desire to impart a thorough knowledge to their students would then predominate over the vain ambition to turn out the largest number of graduates. The student would then seek those colleges which have the most abundant clinical and demonstrative facilities.

Medical societies exert a powerful influence over the educational interests of our profession. If the different medical societies, national, state, district, county and city will work harmoniously, by fixing a standard for preliminary education, and a thorough course of medical instruction, a great deal will be accomplished in forcing the colleges to follow the demands of the profession. The simplest and most certain method, however, to prevent the multiplication of medical colleges beyond the actual demand, and to secure physicians well trained in their profession, is to create a board of medical examiners in every state and territory, whose duty it shall be to examine every person practicing or intending to practice, without regard to a diploma or previous practice, and if qualified, to issue a license to practice. A license obtained from such a board should be considered the only lawful proof of qualification, and an essential prerequisite to practice. Unless some such laws are enacted our medical colleges will continue, from year to year, to flood the country with young men but partially prepared to discharge the duties of such an important profession. The ranks of our profession are already overcrowded. On an average we have one physician to every eight hundred inhabitants throughout the country. This overcrowding has been due to the fact that for years there have been no laws restricting the practice of medicine. To no other profession has the access been so easy and unrestrained. Any person has been allowed to assume the title of doctor, and tamper with human life. In the struggle for a livelihood the honest, educated physician has to contend with the unscrupulous, ignorant pretender. History abundantly illustrates the fact that wherever quackery was permitted to flourish without legal restraint, it not only lowered the dignity and honor of our profession in the estimation of the people, but

in the unequal contest many worthy members were dragged into the most corrupt and disreputable practice.

But I am told that during the early period of our national existence laws regulating the practice of medicine were enacted in almost every state, and were subsequently repealed without having answered the expectations of those who were instrumental in bringing them into existence. Several reasons may be advanced to explain this apparent want of success. In many instances the legislation was premature; undertaken at a time when it was impossible to obtain a sufficient number of physicians to meet the requirements of the law. Again, in many instances, the board of medical examiners was a political body; its members were appointed by politicians, not as much for their ability as their political influence. This was a great mistake. A board, to be efficient, must be composed of honest, able men — men who will do their duty without regard to social or political influence. As long as such boards are controlled and influenced by politics, they will be failures—yes, worse than failures, they will be nuisances. The appointment of members, and the management of such boards, should be conducted by medical men; they are the only competent judges to decide who is, and who is not, qualified for such an important position. The state medical societies, being the representatives of the profession, should make all such nominations, and assist and co-operate with the board of medical examiners.

Another great source of evil has been, is, and always will be, a lack of harmonious action on part of the members of the medical profession themselves. Too often, personal and selfish motives have usurped the place of the nobler desire to advance the interests of the community and profession at large. To our shame it must be said that no other profession presents such a sad spectacle of envy and discord. Our daily walks in life are not only embittered by numerous disappointments in practice, and the never-ceasing accusations on part of an ungrateful and ungenerous public, but at times are rendered almost unendurable by the rugged stones, thorns and thistles thrown around us by some of our own brethren. The same deplorable spirit of jealousy becomes apparent in the adoption of measures that are intended not so much to secure individual prosperity, as the well-being of the entire profession. If we could only agree with each other, we could not only regulate the practice of medicine, but we could rule the state. Our united influence would be felt in every phase of society; it would equally pervade the hovel of the poor and the mansion of the rich, and thus insure the co-operation of the people and their representatives.

The last, but not the least, cause of failure of past medical legislation in this country, has been that public opinion has usually failed to sustain

the laws. The people have always been, and are still, unable to distinguish the physician from the quack. This assertion applies to the educated as well as the ignorant. They may exhibit admiration and respect for operative midwifery and surgical operations, but the practice of medicine remains to them a mystery. Wonders and miracles are still believed in by all classes, and their belief is not unfrequently encouraged and strengthened by the press. The faculty to heal disease is regarded by them just as much as a natural divine gift as the result of profound study and long-continued observation. The quacks, as a rule, are shrewd observers of human nature, and resort to every possible means to operate upon human credulity. On account of these vague ideas regarding the practice of medicine, the sympathy of the people has been too often on the side of quacks. The mass of the people must be educated; they must be made to understand that disease is not a mysterious something which yields to personal magnetism, laying on of hands, or wearing liver-pads, but that it is more generally the result of a violation of nature's laws, and amenable to a rational course of treatment. To enlist the attention and interest of the people, they must be made to understand the importance of a thorough knowledge of anatomy, physiology, and chemistry as prerequisites to the practice of medicine. Unless the people learn to appreciate the value and necessity of a thorough medical education, medical legislation for the purpose of restricting practice will be in vain. Laws may be passed, but they are certain to be repealed unless popular opinion bearing upon this subject undergoes a radical change.

But because medical legislation has not been so successful as we might desire, there is no reason that we should abandon such attempts. Every one of the laws previously passed has unquestionably been productive of some good. The experience of the past has revealed their merits as well as their defects. It is only by a careful study of the history of past medical legislation, that we shall be enabled to adopt measures that will prove more successful and permanent. We have laws prohibiting murder, stealing, and a host of other crimes, but because, in spite of such laws, crimes continue to be committed, no man of sound mind would ask for a repeal of these laws. As governments enact laws for the protection of life, property, peace and happiness of their constituents, they have not only an inherent right, but it becomes their imperative duty to protect those afflicted with disease against the inhuman deceptions of ignorant pretenders.

In this country medical legislation encounters another serious obstacle—the different schools of medicine. We can never expect that the state will adopt the practice of one particular school. In the treatment of disease an honest difference of opinion will always exist. What we can

and should ask for, is the enactment of laws that will prohibit any person from practicing medicine or surgery who has not acquired a liberal knowledge of the fundamental branches of medical science, anatomy, physiology, and chemistry. There can be no difference among the schools in the practice of the mechanical part of the healing art — surgery and obstetrics; hence all alike should be required to possess a fair knowledge of these, the most important departments of our profession. I can conceive of no reason why members of the different schools of medicine should not unite in their efforts to secure such common-sense legislation, that is intended, not to regulate the kind of practice, but to expel quacks who now disgrace all of them. As long as the different schools will quarrel among themselves in relation to this matter, just so long will it be difficult to pass, and next to impossible to sustain, such laws. What we want is a board of medical examiners, composed of the best men of the profession, who shall determine, not the proficiency of any peculiar practice, but the elementary standing of the applicant. No diploma, no ten years' practice, ought to be accepted as sufficient evidence of qualification; a license, obtained after a thorough and impartial examination by a competent board, should constitute the only legal authority to practice. To enhance the probabilities of obtaining a strict law regulating the practice of medicine, it may be necessary to license in the beginning all who are in possession of a genuine diploma; but all those who settle in the state a specified time after the publication of such a law, should be examined irrespective of diplomas. Incompetent men, no matter how old they may be, or how long they may have pursued their wicked trade, should never receive the sanction of a license. With excellent medical colleges in almost every state of the Union, and with unequaled facilities for travel, there is no excuse for any person to-day to enter such an important and responsible calling without having obtained a thorough and practical education. The time has gone by when it was necessary to go to Europe for obtaining a medical education. Take away from our colleges the power to confer license, and they will be model institutions. We have the necessary capital, an abundance of brains, and an unequaled amount of energy and enterprise, that will at no distant future make our institutions the centre of medical knowledge in the world.

#### CONCLUSIONS.

1. Medical legislation should constitute a part of general legislation in every well organized government.
2. Laws to suppress quackery are necessary, to protect the people against the impositions of ignorant pretenders, and to sustain the influence and reputation of our profession.

3. Teaching and licensing should be disjoined.
4. Partisanship among the different schools of medicine should give way to harmonious action, as far as medical legislation is concerned.
5. Boards of medical examiners should be appointed and managed by medical men, and should be, as far as possible, independent of political influence.

For your further consideration, I respectfully submit the following suggestions:

1. The time has arrived when it must be deemed expedient to enact laws in this state for the purpose of suppressing quackery.

2. The appointment of a committee of five members, who, with instructions from the Society, shall confer with similar committees from the now existing state medical societies in this state, for the purpose of preparing a bill regulating the practice of medicine in the state, to be presented to the next legislature for action.

3. The bill should provide for the establishment of a Board of Medical Examiners, to be composed of seven members, the nominations to be made by the state medical societies, the governor to confirm the nominations.

4. Each state medical society now in actual existence to be allowed representation on that board, the now existing membership of each society to be taken as a basis for representation.

5. The secretary of the board shall receive an annual salary of \$500. The actual expenses of the remaining members of the board shall be defrayed, otherwise their services shall be gratuitous.

6. The Board of Medical Examiners, upon application, shall issue a license to practice medicine and surgery in the state to any person who is twenty-one years of age, and in possession of a genuine diploma, or a certificate of membership from any incorporated state medical society, or who has passed a satisfactory examination before a majority of the members of the board. Six months after the passage of the bill all persons not then licensed, intending to practice medicine or surgery, shall be required to pass an examination before the board, irrespective of diplomas.

7. Every licentiate shall be required to register the license in the office of the county clerk in the county in which he may reside.

8. The board shall publish annually a catalogue, for distribution, containing the names, residences and credentials of every licentiate in the state.

9. Any person who shall be convicted of practicing medicine or surgery without having complied with the requirements of the law shall

be punished by a fine of not less than \$25.00 or more than \$500.00, or by imprisonment in the county jail for a term of not less than thirty days or more than three hundred and sixty-five days.

Gentlemen of the Medical Society of the State of Wisconsin: I hope that the important subject to which I have alluded so imperfectly will receive your most earnest attention. I trust that after a free and impartial discussion concerning this topic, you will adopt some measures towards securing early and effective legislation in this state. Wisconsin has always been one of the most progressive and enterprising of all the states. She has been foremost in agriculture, commerce, and in the advancement of her educational interest. Her inhabitants are an energetic, intelligent people. Her medical men can favorably compare with those of any other state. Shall we have a law that will protect the honest educated physician and preserve the esteem and purity of our profession? Shall we have a law that will prevent ignorant pretenders to prey upon the life-blood of our afflicted citizens to gratify their lust for gold? You must all agree that the time has come to take some action to exterminate this remnant of barbarism—quackery. The people of our state have always been willing and ready to adopt measures of reform, and I have no doubt its representatives in the legislature will co-operate with us, provided a bill is presented that will be reasonable and just to all. The people expect us to take the first steps.

“No; things will never right themselves,  
’Tis we must put them right.”

It is not only our duty to assist in enacting laws, but we are under obligation to help sustain and enforce them. The members of the Board of Medical Examiners will assume many unpleasant and responsible duties. In the discharge of their arduous labors they should be constantly encouraged by our advice, our assistance. Envy and selfishness should find no place in the heart of the true physician. To elevate our profession, to advance science, to prevent disease, to prolong life, to alleviate suffering, should be our highest, our only aim.

