

HOUSE OF COMMONS.

July 13th, 1836.PETITION OF THE SURGEONS OF ANDOVER
IN THE CASE OF WM. WOOD BRADSHAW.

Mr. WAKLEY this evening presented a petition signed by several surgeons of Andover.* He stated that it was necessary for him on this occasion to depart from the usual practice of handing in petitions without remark or explanation, and detail at some length the grievance of which the petitioners complained. The gentlemen who had signed the petition and forwarded it to him for presentation to the House, were all of them members of the College of Surgeons, and had, during many years, been engaged in the practice of their profession in the town of Andover. They constituted a portion of the Commonalty of the College, which had obtained its charter in the year 1800,—an instrument which had been founded upon the 18th of George II. By that charter it was decreed that the College should consist of a President, Council, and Commonalty, the Council being empowered to elect the President from their own body, and exclude the Commonalty from taking any, the least share, in the government of the institution. It was necessary that this explanation should be given, otherwise it might appear extraordinary that if the complaint of the petitioners were well founded, it should remain unremoved by the general body of their own College. In the government, however, of that institution, twenty-one persons maintained an absolute rule, and between six and seven thousand members of the College were entirely shut out from participating in its management. Amongst other duties which the Council of twenty-one undertook to execute, was that of examining candidates for the diploma, and prescribing the periods of attendance on lectures and hospital practice, which the students should observe before they were to be deemed eligible to be admitted as candidates for the examination. This point was one of importance in the present inquiry, and ought to be fixed in the recollection of the House. The candidates, in compliance with the regulations of the Council, were required to produce, not merely tickets of admission to lectures and hospital practice, but certificates from different hospital surgeons and lecturers, as substantial proofs that the stipulated attendance had been served. In the autumn of 1833, the following were the regulations which the council required candidates for the diploma to produce testimonials of hav-

ing observed, before they could be admitted to an examination. In order to avoid mistakes, they had better be read to the House from the printed paper itself, which was issued by the College:—

“Candidates will be required to bring proof:

“1. Of being twenty-two years of age.

“2. Of having been engaged six years in the acquirement of professional knowledge.

“3. Of having studied anatomy and physiology, by attendance on lectures and demonstrations, and by dissections, *during two anatomical seasons*. An anatomical season is understood to extend from October to April inclusive, and to *comprise at least 140 lectures on anatomy and physiology*, occupying not less than one hour each, given on separate days; and at least 100 demonstrations *of the like duration*, given in a similar manner; exclusive of dissections, of which distinct certificates are required.

“4. Of having attended at least two courses of lectures on surgery, delivered in *two distinct periods or seasons*, each course to *comprise not less than sixty lectures*.

“5. Of having attended lectures on the practice of physic, on chemistry, and on midwifery, during *six months*; and on botany and materia medica during *three months*.

“6. Of having attended *during twelve months* the surgical practice of a recognised hospital in London, Dublin, Edinburgh, Glasgow, or Aberdeen; or for six months in any one of such hospitals, and twelve months in any recognised provincial hospital.”

Such were the conditions which, in the autumn of 1833, candidates for the diploma were required to furnish “proof” of having observed, and it is generally believed that the Council, through the Court of Examiners, had always insisted, in peremptory terms, on their due and faithful observance. For the purpose of enforcing the attendance on lectures and hospital practice prescribed in the regulations, the Council many years ago enacted the following by-law, which at that time received the sanction of the then Lord Chancellor, the Lord Chief Justice of the Court of King’s Bench, and the Chief Justice of the Court of Common Pleas. It then stood and still stands thus:—‘If at any time after the admission of a member he shall be found to have violated any by-law of the College relating to candidates for the diploma; or to have been guilty of any *fraud*, false statement, or imposition, in any matter required by the College, his admission shall be wholly null and void.’ This was the 17th section of the by-laws of the College. The allegations of the petitioners could now be clearly understood. In the second paragraph of the petition it was charged, ‘that a person of the name of William Wood Bradshaw was prac-

* See LANCET of July 16, page 535.

'tising in the town of Andover, as a surgeon, having obtained his diploma from the College of Surgeons by fraudulent certificates, which allegations the petitioners were enabled to prove at the bar of the House. That during the time which his certificates testified he was employed in attending lectures and hospital practice in London, he was, in reality, engaged as an apprentice, with Dr. Trevor Morris, of Chepstow, in the county of Monmouth, and did not visit London for some years afterwards, and then only for a period of two or three months; immediately after which he returned to Andover with his diploma. That although hardly credible, yet it was strictly true, that the Council of the said College had refused to take any proceedings in the case, notwithstanding affidavits had been presented to them to prove that the said William Wood Bradshaw had not attended one lecture during the years and months mentioned in his certificates; that he did not visit London for some years after the time of their date, and then for two or three months only.' These were the allegations of the petitioners, who, after *two years of procrastination on the part of the Council*, received from that body, through their secretary, the following answer to their demand for justice:—

"Royal College of Surgeons in London,
27th January, 1836.

"Sir, I am desired to acquaint you that the Council have investigated all the facts and circumstances connected with the certificates of professional education produced by Mr. Bradshaw, at the time of his admission as a member of this College.

"That they have also conferred with and taken the opinion of the legal advisers of this College thereon.

"And that, in consequence of the doubts and difficulties connected with the subject, they have resolved that it is inexpedient to proceed further in the business. I am, sir, your most obedient humble servant,

"EDMUND BALFOUR, Secretary.

"To R. R. Perry, Esq., &c. &c."

Had the petitioners obtained a more satisfactory reply from the Council, they would not have found it necessary to address the House of Commons on the subject of their complaint. From the affidavits which were forwarded to the Council, it appeared that Mr. W. Bradshaw had gone to reside as an assistant with Mr. H. Perry, of Henbury in Gloucestershire, in June 1826, and there remained until March 1829, when he left that place for the purpose of becoming an assistant with Mr. R. Rogers Perry, of Andover, with whom he continued until September 1832. That in February 1833, he commenced practice in that town as a surgeon on his own account, that he

continued there until October in the same year, that he then visited London and in December, 1833, being a period less than three entire months from the time of his departure, returned to Andover with the diploma of the College of Surgeons. Such were the facts of this extraordinary case, and the petitioners could not be accused of evincing any neglect in bringing the circumstance under the notice of the Council, because they addressed the Council within a fortnight of the time of the return of the accused party to Andover. Indeed, the first letter of the Secretary of the College was dated the 8th of January 1834, and in the commencement the following remarkable passage was to be found:—

'I have now, by direction of the president, to acquaint you, in reply to your letter of the 5th instant, that Mr. Bradshaw, prior to the year 1828, had completed the course of professional education required by the then existing regulations on that subject. Although the petitioners thus learn *authoritatively*, from the College, that the testimonials of Mr. Bradshaw proved, *prima facie*, that his professional education was completed prior to the year 1828, yet the affidavit of Mr. Rogers Perry, of Henbury, established the fact that from June 1826 to March 1829, Mr. Bradshaw had not been absent from his (Mr. R. P.'s) residence during a single week at any one time included between those months or years; and in a letter which Mr. Perry afterwards addressed to the College—as the College has stated that the affidavit did not go far enough—it was declared by Mr. P. to be in his power, with equal truth, to make oath of the fact that the accused party did not either in the years 1826 or 1827, leave the house of the deponent for more than a day at any one period, and then the only instance of his leaving it for forty-eight hours was in the year 1829, immediately before he finally quitted Henbury for Andover. Again, it was proved by the affidavits, as he (Mr. Wakley) was informed by the petitioners that Mr. Bradshaw's apprenticeship did not expire until Lady Day 1827, so that, in fact, he was three quarters of a year with Mr. Perry of Henbury, before the period of his apprenticeship had concluded. When, then, did Mr. Bradshaw comply with the regulations of the College? It appeared obvious that the complaint of the petitioners was well founded, and that the council had been guilty of a gross neglect of duty in not taking the necessary steps to vindicate the rights of those members of the College who had endeavoured, honourably and faithfully, to comply with the terms and periods of attendance which had been defined in the regulations published by the Council. In neglecting the complaint of the petitioners the Council had violated the eighteenth by-law, which, it appeared

groundlessly assured the members 'that the College would, at all times, protect and defend every member who might be disturbed in the exercise and enjoyment of the rights, privileges, exemptions, and immunities, acquired by him as a member thereof!' The petitioners, therefore, who were all of them members of the College, had a well-grounded right to complain of the conduct of the Council on that occasion. The by-laws seemed to stand upon the books of the institution as matter of form, and were not to be rendered available for upholding the rights and privileges of the commonalty. When this petition was received, it was forwarded by him (Mr. W.) to the College, for the inspection of the Council, and the honourable and learned member opposite (Sir F. POLLOCK), whose opinion on the subject was taken professionally by the Council at the time of the application from Andover, would probably endeavour on this occasion to justify the conduct of the Council in neglecting the appeal of the petitioners. Mr. Bradshaw had himself, also, had due notice from him (Mr. W.) of the presentation of the petition, and none of the parties who were implicated could allege that they had been taken by surprise, or that they had not had ample opportunity of refuting in that House the allegations of the petitioners. If complaints of this description were to be allowed to pass unheeded, the commonalty of the College would fall into utter disrepute, and the whole of the regulations which were published by the Council for determining the pursuits of the students, would operate merely as instruments of extortion against all candidates for the diploma. That the system out of which these regulations arose was a bad one, could not be denied, and that the examination of the candidate ought to be made and received as a full acknowledgment of his competency to engage in the arduous duties of his profession. But the petitioners had an undoubted right to insist that if these regulations were in existence, compliance with them should be enforced,—not partially, but against all the candidates for the diploma,—that the system of government and the regulations should be founded and executed on strict principles of impartiality. Besides, the petitioners had in this case sufficient reason for believing that Mr. Bradshaw had undergone no examination at all before the College; because if the system admitted of his making it appear that he had attended lectures and hospital practice in London during a period of nearly two years, without his having been in the metropolis at all during that period, it was natural for the petitioners to believe that some other party was examined at the College in the name of "Bradshaw," and that he never presented himself, personally, before the

Court of Examiners. The case, therefore, was one that demanded a full and complete inquiry. By *whom* were the certificates signed? Who were the lecturers whose signatures, thus imposed on the College, insulted the commonalty, and defrauded the public? Who were the hospital surgeons that testified to the attendance of Mr. Bradshaw on the surgical practice of a London hospital during twelve months? That the Council of the College were fully conversant with the fraud which had been practised, was rendered quite clear from the following paragraph which he (Mr. W.) would quote from a letter, addressed by Mr. Balfour, the secretary of the College, by order of the Council, to Mr. Perry of Andover, on the 24th of May, 1834:—"The Court are sorry to perceive, by the statement of Mr. Perry of Henbury, that the certificate purporting to have been signed by Mr. Sleigh, cannot be correct, and they will take further steps on this subject." What were the 'steps' which the Council took, even after this admission of the fraud? Why, they cited Mr. Bradshaw to appear, and answer the complaint of the petitioners. Their citation was treated with contempt, and then the Council coolly informed the petitioners that, 'from the doubts and difficulties of the affair,' they could take no further proceedings respecting it. Still it must appear to every impartial person who was anxious that the utility and the respectability of the profession should be maintained, that it was the duty of the Council to enter into the fullest and most complete investigation of the allegations contained in the complaint. It had been alleged by the Council, that, even if the fraud was proved, they had not the power to erase the name of Mr. Bradshaw from the list of members. It might be supposed that the existence of the 17th by-law of the College, which he (Mr. W.) had already quoted, would have precluded any individual belonging to the Council from offering so shallow an excuse for the conduct of that body. If the College had not the power to dismiss, why were the by-laws authorizing dismissal continued upon the books? But the right of corporations to expel was acknowledged and undoubted. The decision of the court, pronounced through Lord Mansfield, in the *King v. Richardson* (Burrow's Reports, vol. 1, page 539), confirmed the existence of this power beyond the possibility of dispute:—"In Bruce's case, the court says, 'The modern opinion has been, that a power of *amotion* is incident to the corporation.' We all think that this modern opinion is *right*. It is necessary to the good order and government of corporate bodies that there should be such a power, as much as the power to make by-laws. Lord Coke says, 'There is a tacit condition annexed to the franchise, which, if he breaks, he

'may be disfranchised.' But where the offence is merely against his duty as a *corporator*, he can only be tried for it by *the corporation*. Unless the power be *incident*, franchises or offices might be forfeited for offences, and yet there would be no means to carry the law into execution. Suppose a by-law made "to give power of amotion for *just cause*;" such by-law would be good. If so, a corporation, by virtue of an incident power, may *raise to themselves authority to remove for just cause*, though power to do so was not expressly given by charter or prescription. Nothing could be clearer, then, than the right of the Council to enforce their own by-laws, and dismiss any member of the College who might have obtained his diploma by means of testimonials which had been fraudulently obtained, or by means of any other false statement or dishonest practice. In what manner the Council would justify their neglect in the instance before the House, remained to be seen; but it required very strong evidence to prove that the petitioners had not established a full claim to redress, and also that they had not discharged a most important public duty in bringing their grievances under the consideration of the legislature.

Sir F. POLLOCK trusted that the House would allow him to make a few statements in reply to the complaints and allegations of the petitioners. He was well acquainted with the case, as he had been consulted upon it professionally, and he was anxious that the petition should receive the most deliberate attention. He felt bound to observe, that the honourable Member for Finsbury was not quite correct in stating the law of the case. He was right, however, with reference to the power of the Council to declare the admission of the candidate, after fraud had been proved, to be altogether null and void. But the question first to be determined was this, Had the petitioners furnished the Council with sufficient proof to warrant them in erasing the name of Mr. Bradshaw from the list of members? It was his decided opinion that the evidence was altogether insufficient for that purpose, and that it would have been most unsafe, if not unjust, for the Council to hazard any such proceeding. It was stated by the petitioners, that the College had not adopted any proceedings relative to their complaint. This was incorrect; nothing, in fact, could be more erroneous than such a statement, as the facts which he had to disclose would sufficiently prove. If Mr. Bradshaw did not appear before the Council when he was summoned, that was not the fault of the College. They had no power to enforce his appearance, and Mr. Bradshaw had an undoubted right to neglect or comply with the request, as he might think proper.

In requiring him, however, to appear before them, the Council had discharged their duty in that respect. When the petitioners sent a statement of the complaint to the College, he (Sir F. P.) was consulted on the subject, and he advised that the petitioners should be requested to furnish affidavits of those facts bearing on the case which were within their cognizance. Subsequently, those documents were forwarded to the College, and afterwards laid before him, in order that his opinion thereon might be taken. He then went through the case most deliberately, and at the conclusion of the investigation he was firmly, conscientiously, and decidedly of opinion that the College could not, with a due regard to its own security, and to the right of the subject, expel Mr. Bradshaw upon the evidence which had been tendered by the complainants. He (Sir F. P.) took upon himself the whole responsibility of giving that opinion, and if the conduct of any person was blameable, it was to him that the censure should apply, and not to the Council, for that respectable body of gentlemen had acted entirely upon the advice which he had deliberately given as the professed adviser of the College. In short, such was the nature of the evidence, that it was his opinion that it would be highly improper to take any other proceedings in the business than those which had been adopted by the Council. The House would remark, that it had not once been asserted by the petitioners that Mr. Bradshaw was incompetent to discharge the duties of his profession, and it was probable that the complaint arose more out of his success as a practitioner, than in consequence of any fraud committed in obtaining his diploma. He feared, in fact, that professional jealousy, or rivalry, had no small share in originating and giving colour to the statements of the complainants. What were the facts of the case? The gentleman applied to the College to be examined. The usual testimonials were demanded by the proper authorities. The certificates from the regular teachers were presented to the Court of Examiners, and bore, in the signatures attached to them, all the characters of genuineness and authenticity. Upon these testimonials the candidate was admitted, and after going through the usual examination, to the entire satisfaction of the Court, he was granted a diploma to practise surgery. In the whole of this proceeding there was nothing irregular on the part of the Council, and no circumstance had arisen to induce a belief that the slightest irregularity had occurred. Even now, indeed, it was not pretended that the testimonials were forged documents, but only that the parties signing them had testified to an attendance which had not been served by Mr. Bradshaw. The evidence in negation of the fact was, however, in point of

law, as evidence, insufficient to sustain the ground which the petitioners had assumed. No doubt existed of the certificates being genuine; as soon, however, as Mr. Bradshaw returned to Andover, a letter was received by the Council, in which it was alleged, that a person who had just come to that town with the diploma, had received it at a time when, according to the regulations of the College, he was not properly qualified. Then it was that he (Sir F. P.) was consulted, and, subsequently, those other steps were taken which he had explained to the House. After the fullest inquiry, he was fully of opinion that the Council could not, safely, or with propriety, expel him, and that opinion he had unhesitatingly communicated to the College. From the affidavits of the petitioners, it was difficult to say whether Mr. Bradshaw might not have attended the lectures and hospital practice during considerable *successive* periods *within* the dates which professed to include the commencement and termination of the period of his attendance on them in the College; and it was well known by the Council, and not less so by the profession, that great strictness, with reference to the attendance of students, was not, and could not, always be observed. Now the affidavit of one of the petitioners, with whom Mr. Bradshaw had resided in 1826 and 1827, stated that Mr. B. was not absent for more than seven or eight days at any one time, but no mention was made of the frequency with which absences occurred. Would a jury convict upon such evidence? In his opinion, decidedly not. If, therefore, the College had expelled Mr. Bradshaw upon the evidence which had been forwarded by the petitioners, he might have applied to the Court of King's Bench for a mandamus calling upon the Council to show by what right they had struck his name from the list of members. In that case the College would have had to prove that the certificates were not genuine, or that they had been obtained fraudulently, when, upon such evidence as was furnished in the affidavits in question, no lawyer could be found fairly to anticipate that the verdict of a jury would be in favour of the College. That was his firm and decided opinion. Had the College been made acquainted with the case before the admission of the party as a member, it might have been necessary to institute an inquiry which might have been attended with a very different result, but having been examined, having been admitted to the rights of a member, having obtained the diploma after an examination, it would be most unbecoming, and most injurious on the part of the Council to deprive Mr. Bradshaw of his right, without having received the clearest possible proof that his admission had been accomplished by fraud. He had nothing to

conceal in the case, and having learned from the Council that the petition was to be presented by the hon. Member for Finsbury, he had freely communicated with that gentleman on the subject, and had shown him the opinion at length which he had given to the College professionally, when he was consulted after the presentation of the affidavits by the petitioners. He must again say that the College had acted throughout on his opinion, as a lawyer, and he alone was responsible for all that had been done, and all that had been omitted. The College, in his opinion, had taken every step which a sense of justice, or of public duty, could require. The evidence for the expulsion of Mr. Bradshaw was insufficient, and he was sure that he might confidently state in the British House of Commons, that it was not consistent with justice to allege that any man was to be put on his trial in this country, upon suspicion—upon a charge against him which only amounted to mere *suspicion*.

Mr. WAKLEY was never more surprised than on hearing the remark with which the hon. and learned Gentleman had concluded his speech. The hon. Gentleman was a most distinguished lawyer, and had lately held under the Crown the high office of attorney-general, and yet he believed that it never would be said by the British House of Commons that a man should be tried on an accusation against him which only amounted to suspicion! Why, was it not a fact that the law regarded every man as being tried on mere *suspicion*, and that no man was considered to be guilty until he had been tried?

Sir F. POLLOCK.—There is the intervention of the grand jury.

Mr. WAKLEY. — True; the proceeding before that body confirms my view of the case. The accused party, be it remembered, is not heard before the grand jury, and the inquiry, conducted wholly *ex parte*, only goes to prove that there is enough of suspicion to put the accused individual upon his trial before a jury in open court. With regard to the case before the House, it was evident that the petitioners had made out as strong a case of *suspicion* against Mr. Bradshaw as it was possible to publish; but other parties were implicated, and it was not convenient to pursue the inquiry. If the testimonials had been fraudulently obtained, it might readily be conjectured that they had been fraudulently granted, and it did so happen that the testimonial of attendance upon the practice of a London hospital, was actually signed by some of the members of that very Council to whom the petitioners had applied for redress. He would not, however, prolong the discussion. In framing new laws for the government of our medical institutions the House was in

possession of sufficient materials for preventing for the future abuses of a similar description, but with reference to the present case it was obvious that the petitioners could not obtain justice without submitting their complaint to the consideration and decision of a jury.

On the motion of Mr. WAKLEY the petition was then brought up and laid upon the table.

THE LANCET.

London, Saturday, July 30, 1836.

IN another part of our journal will be found a report of the proceedings of the "PROVINCIAL MEDICAL AND SURGICAL ASSOCIATION," which has just held its annual meeting at Manchester. The preceding celebration of the society took place at Oxford, in the last year, and the two occasions have exhibited a striking contrast with respect to the numbers who were present.

Earnestly have we desired that the medical practitioners of this empire should be united in one firm bond of attachment for their common benefit, and for the public advancement. We hailed, therefore, the establishment of the "Provincial Medical and Surgical Association" with no ordinary feelings of satisfaction. At the same time we expressed our opinions of its probable success, doubtingly,—stated our apprehensions of the appropriateness of the designation which was given to the Association,—and remarked that we were led to fear that the constitution of the society in theory, however agreeable it might prove on perusal, would not work effectively in practice, and satisfy those expectations and demands which had so long existed, and been proclaimed throughout all ranks of the profession. The proposed migratory visits of the Association held out to the minds of many enthusiastic individuals a prospect of success, which, we apprehend, will never be sustained by any more solid foundation than the imagination of energetic speculators.

The title of the Association always appeared to us to be extremely objectionable. Bating its want of classical nicety, terseness, and distinctness, it conveyed an irrational as well as an illogical inference. First, it should be observed, that England is not a country of "provinces;" and, secondly, the adjective drawn from the generic term *medicine*, ought not to be coupled with another adjective which indicates that a distinction can be made in those sources of information whence medical practitioners derive a well-founded knowledge of their profession. The *differences of title* have operated greatly to the prejudice of a vast majority of the profession in this country. When, therefore, the new Association was established, we expressed our astonishment and regret that a society of so extensive a range of operation, founded in the nineteenth century, should denote by its title that practitioners in medicine could be divided into "medical" and "surgical" classes. The imperfect government of our *colleges*, and many of our conventional arrangements, encouraged, it is true, the founders of the institution in falling into this error of designation at the time it was committed. Still, the inaccuracy, when we reflect on the attainments of its authors, was almost inexcusable. It was a radical, a fundamental, as well as a philosophical mistake. Sincerely do we believe that it was the object of Dr. HASTINGS to amalgamate into one association the great majority of English medical practitioners,—whatever might be their designation or their titles,—in the walks of professional and social life. But he ought to have borne in mind that those gentlemen who practise as pharmacopolists, as surgeons, as general practitioners, as accoucheurs, have been stigmatized by the Councils and censors of the *Colleges*,—by the foul offsprings of nepotism in our hospitals,—as belonging to a "SUBORDINATE" class of practitioners. The College of Physicians has stigmatized the great body of English medical practitioners, by inflicting upon them the