I will not weary you with further searchings among the tombs of those who have passed away. On us falls the burden which their shoulders once bore. We may easily point to the faults and foibles of those actors on Northampton's stage, but with their opportunities and disadvantages we might not have done half so well. If in our heavens the sun of knowledge has risen higher, and we no longer grope amid the veiled forms and shapes which met them in those twilight days, be it our aim to fight with at least as great zeal and determination as they to advance the progress of their race and alleviate the ills of our fellow men; not blurring our vision by prejudice nor weakening our powers by internecine strife.

MEDICAL POLITY, AND THE LAW AS IT DIRECTLY AFFECTS THE MEDICAL PROFESSION;

WITH SPECIAL REFERENCE TO THE POINTS WHICH SHOULD
BE DEALT WITH IN A MEDICAL ACTS AMENDMENT BILL.¹

By A. BROWN RITCHIE, M.B., C.M. EDIN.

ON January 12th last there was published in the *BRITISH MEDICAL JOURNAL* a Bill aiming at the suppression of practice by unqualified persons. That Bill has been condemned by the Lancashire and Cheshire Branch of the British Medical Association as being wholly inadequate, dealing as it does only with the assumption of titles or descriptions implying possession of a degree or licence, or even skill necessary for the practice of medicine, surgery, or midwifery, or any branch of these. The committee of this Branch, having had under its consideration, *inter alia*, that Bill, appointed a subcommittee to inquire into the question of what amendments were desirable, and to draw up a scheme which would serve as a basis or model, and indicate the lines on which a satisfactory Bill should run. In the paper which I have to read I am permitted to lay before you the result of the labours of that subcommittee. Our subject then is, "What are the points which it is desirable should be considered and dealt with in the framing of any Bill purporting to amend the Medical Acts?" In looking at the law as it now stands from this point of view, there are many unsatisfactory points of minor consideration. These, I think, it will be best to avoid. Let us take, then, the principal deficiencies.

Broadly speaking there are six lines on which reform may be advocated. These are:—I. The constitution of the General Medical Council. II. The powers of the General Medical Council. III. The powers of the corporations and universities. IV. Practice by unregistered persons. V. Medical advertisements (indecent, etc.). VI. Certification and registration of deaths.

I.—THE CONSTITUTION OF THE GENERAL MEDICAL COUNCIL.

At the present time 5 members of the Council are Crown nominees, 20 members represent the various corporations and universities, and are elected by cliques of professors or teachers and others, numbering together about 300, while 5 members directly represent the 30,000 registered medical practitioners. With the exception of Victoria University, which includes Liverpool, Manchester, and Leeds Medical Schools, from one of which a representative is sent every five years, each taking rotation, the representatives of the corporations are practically elected for life, and long service is apt to produce apathy, while in some cases the member does not represent the views and interests of the diplomates or graduates of his corporation. The dentists are controlled by the Medical Council; they pay a registration fee, and number about 5,000, but have no representative on the Council, nor has the Council power to appoint one. We propose to amend the present state of affairs by having representatives of corporations or universities elected by the licentiates, i. plomates, or graduates of such; a limited term of office on the Council, say four or five years; a member representing the British Dental Association; or by an alternate scheme providing (1) district representation; (2) one Crown nominee;

¹Read before the Council of the Lancashire and Cheshire Branch of the British Medical Association.

(3) representation of universities and corporations in turn; (4) a member representing the registered Dentists of the United Kingdom.

As the deficiencies in law regarding the powers of the General Medical Council, the powers of the Corporations and Universities, and the practice by unregistered persons, cannot be separated and put under the different headings, one often applying to all three, we will take them together and separate the subjects when we propose treatment for these deficiencies.

The chief points are: (1) Referring specially to the Council: In all matters of control, reform, regulations, recognition of diplomas, standard of proficiency, etc., the Council has no power to act, but can only make recommendations to the Privy Council, two members of which (a quorum) can control it, and through which everything must be done. There is no control over students. There is no control over unregistered persons. Registration is not compulsory for practice.—(Aberdeen Graduate.) A person may be disregistered without being disqualified.—(Sutherland.) Before disregistration the Council must conduct an inquiry which is costly, and could be done much more cheaply and quite as well by the licensing body.—(Partridge, Allbutt.) The Council does not receive the penalties recovered by them in London; they have to bear the costs of the prosecution in case of failure, but the penalty goes to the metropolitan police if the case is won. This is in cases of prosecution for false assumption of titles, etc. (2) Referring to Corporations and Council and unregistered practice. The regulations, standard of proficiency, course of study, and method of conducting examinations vary with the different Corporations. The only body which can prosecute unqualified practitioners is the Apothecaries' Society, and it can only prosecute for practice of medicine, not surgery or midwifery. The Universities (except Cambridge and Durham) cannot withdraw a degree.—(Sutherland.) Some of the Corporations can withdraw, but not restore, a diploma. An infinite variety of titles or descriptions, implying skill necessary to treat disease or injury, can be used by unqualified persons without infringing the present law. An unqualified person may practise without assuming any title or description. A person falsely assuming a title, or pretending to be a physician, etc., must first be warned, and can only be prosecuted if he persist in so doing. An institution wholly supported by voluntary contributions may employ an unqualified medical officer or surgeon. A registered practitioner is liable to be sued for damages for neglect, want of skill, or injury, while an unqualified person is not, though both are supposed to be, equally liable by law. (A registered or qualified practitioner is supposed to have competent skill for treatment. If there is no qualification you cannot assume skill, and if the case requires skill for treatment, and no malice is proved against the unqualified man, there is no case for damages.) The public have to pay the costs of inquests directly caused by practice of unqualified persons.—(Harpurhey Chemist.) Dispensaries may be carried on anonymously when it is difficult to get at the responsible person or to know whether he is qualified or not, etc. Any person may use the name of a duly qualified practitioner with reference to an appliance or proprietary medicine, and the practitioner can get no injunction or restraint, nor can he recover damages for injury to status caused by this practice.—(Williams, Henry Scott, Dr. Fox, etc.)

II.—THE POWERS OF THE GENERAL MEDICAL COUNCIL.

Taking as our model the profession of law, we find that the Council of the Inns of Court is the supreme authority. There is no Privy Council interference—the Council acts independently. The various Inns send representatives to the Council, which controls them as regards examinations and suggests regulations for their adoption. The Inns govern themselves, but as regards affairs common to all they are subject to the Council. There is a uniform examination, but each Inn calls its own students—that is, admits to the Bar. We propose to extend the powers of our Council over (1) registered students, (2) registered medical practitioners, (3) foreign and colonial practitioners practising in the United Kingdom, (4) medical Corporations and Universities, (5) unqualified practitioners and their employers.

These powers would include granting a representative to any corporation (for example, Dentists' Association). Enacting laws and regulations for the corporations (aiming at uniformity). Making regulations as to course of study, method of examination, etc. Conducting or supervising examinations of corporations. Demanding inquiry by corporations as to conduct of their graduates or licentiates. Discipline over students and practitioners for unbecoming conduct, etc. (by means of bond and declaration signed previous to registration). Compelling registration simultaneously with qualification and making these concurrent. (Precedent—Dentists Act, 1878, Clauses xiii and xiv.) Disregistration and restoration to *Register*. Cancelling of licence or degree and restoration of same. Suspension of licence or degree or from *Register*. Raising or altering fees for registration (annual or compounding). Conducting inquiry by means of judicial committee. Prosecution of unqualified persons practising in medicine, surgery, or midwifery, or any branch thereof. Prosecution of employers of such (practitioners having unqualified deputy). Prosecution of persons allowing employment of such (managers or companies allowing doctors to employ an unqualified deputy to do the work). Right to penalties recovered in London. It is also desirable that all premises used for or in the practice of medicine, surgery, or midwifery should bear the name of the person so practising, exposed to public view. And that no institution, whether wholly supported by voluntary contributions or not, shall be allowed to employ an unqualified person as medical officer, surgeon, etc.

III.—THE POWERS OF THE CORPORATIONS AND UNIVERSITIES.

These would require powers of discipline over graduates or diplomates (by means of bond and declaration signed previous to registration, and by granting diplomas to be held conditional to observance of by-laws and regulations). Cancelling, withdrawing, suspending, and restoring a diploma or degree. Raising or altering fees for examination or registration.

IV.—PRACTICE BY UNREGISTERED PERSONS.

There are many ways of checking irregular practice. As precedents to our proposals we have, with regard to unqualified practitioners, the Solicitors Act, 1843, Sec. ii and xxxii; the Apothecaries Act, 1875, Sec. xiv and xx (as to assistant, Sec. xvii); with regard to assumption of titles or descriptions, the Dentists Act, 1878, Clause iii; the Veterinary Act, 1881, Clause xvii, Sec. i. We suggest therefore a penalty for the practice, direct or indirect, of medicine, surgery, or midwifery, or any branch of either of them, for or in expectation of gain or profit.—(Mr. Whitehead's resolution.) A penalty for assumption of titles or descriptions implying qualification or even skill necessary for the practice of medicine, surgery, or midwifery, or any branch of either of them, or administration of medical treatment. (JOURNAL Bill, January 12th, 1895, Dentists and Veterinary Acts.) We also propose a penalty for the employment of an unqualified deputy (in cases of public appointments, mines, works, etc., which are contracted for at a low fee and worked by unqualified assistants). A penalty for allowing employment of unqualified deputy (affecting managers or companies or owners of mines, etc.). Right of action for damages (tort), if cause for such, when a person is attended by an unqualified practitioner, any contract to the contrary notwithstanding, that is, without the unqualified person having the power to bind a patient not to prosecute him. Right of action by representatives, if cause for such, when a person dies, having been treated by an unqualified practitioner, any contract to the contrary notwithstanding. Criminal proceedings for injury or death caused by unqualified practitioner. Right to public to recover fees paid to unqualified practitioners. Fine of costs in cases of inquests caused by attendance of unqualified practitioner. And that any person using the name of a duly qualified practitioner with regard to any appliance or proprietary medicine shall on demand show evidence of his having received authority to do so, and if he cannot he shall be liable to an action for damages by any duly qualified practitioner bearing the same surname as that used.

V.—MEDICAL ADVERTISEMENTS.

The Indecent Advertisement Act applies only to London

and such cities as have adopted it—for example, Liverpool. It only makes the posting up to public view or the delivery of pamphlets, pictures, or advertisements of that character penal, and does not apply to advertisements in the news papers, nor, it seems, to those on sandwich boards or sent through the post. This requires making the London Act refer also to newspapers and sandwich boards, etc.; extending it to the United Kingdom; including within its scope advertisements suggesting the procurement of abortion—"removal of obstinate irregularity," etc.

VI.—CERTIFICATION AND REGISTRATION OF DEATHS.

At present the registrar, an unqualified person, is the judge as to whether there are suspicious circumstances about a death or not. Unregistered persons may notify a death, and their notification is accepted.—(Herbalist.) Certification of the fact of death and identification of the body are not necessary. Fraud by personation of living by dead, obtaining certificate by false information, or forging certificate is easy. The medical practitioner gets no fee for the certificate of death, while the registrar is paid for copies of it. The practitioner is not bound to certify that he attended deceased in the last illness. There is no definition of "attendance during last illness," nor rule as to when a certificate must be given and when not. A very large proportion of stillbirths are uncertified, or certified by unqualified persons (midwives and others); 45 per cent. in Manchester are so certified. Stillborn children need not be buried in a public burial ground, and if not, neither the birth, death, nor burial need be registered.

Following the recommendations of the Special Commission appointed to inquire into this subject—at least in their main lines—we propose: That all uncertified deaths be compulsorily reported to the coroner; that no certificate issued by an unqualified person be accepted; that the fact of death be certified and the body identified; that certificates of death and all copies thereof be got directly from the practitioner; that there be a fee for each certificate or copy; that grounds should be defined for refusing certificates; that "attendance during last illness" should be defined; that stillbirths should be registered and certified the same as ordinary deaths.

Gentlemen, we, as registered medical practitioners, have a recognised legal status. That the benefits accruing from this are so insignificant is, in my opinion, largely due to the apathy and want of cohesion in the profession. The proposals which I have submitted to you are already considered Utopian by some, and no doubt will be by others, as are most schemes of a comprehensive nature when first put forward. These proposals are not original; they have nearly all been advocated by others before, but are now brought together as a whole. We must remember that in advocating provisions which shall be of advantage to our profession, if we are to hope for some measure of success, they must be blended with others which are directly of advantage to the public; this is most clearly shown in the provisions for suppression of practice by unregistered persons. To my mind there is nothing either impracticable or unreasonable in any of our proposals, and Dr. Gledhill, barrister-at-law, to whom I am indebted for the information contained in this paper, has undertaken to show the necessity or advisability of any one of them.

A FURTHER ANALYSIS OF THE WATER OF THE ZEMZEM WELL IN MECCA.

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We owe to the kindness of Mr. Ernest Hart the opportunity of making a fuller examination of Zemzem water than that reported by one of us in the BRITISH MEDICAL JOURNAL of June 30th, 1894, p. 1412.