

as to franchise and estate. Hence the trustees constituted by that act, and now holding under that authority the property of the institution, are treated by the memorialists as introduced into their control as agents of the State, and the State is regarded consequently as now through these individuals the effective occupant of the property; and the action of the State therefore as the superior of these trustees, is claimed, to authorise and direct them to deliver the property to the Regents. The State's explicit abandonment of her pretensions is solicited by the memorialists, as the proper act of respectful conformity to the judicial decision, and as the necessary procedure to rectify the error which led the State to invade private rights, and a redress which she ought promptly to render. In these views the undersigned earnestly concur. The State is the real litigant with the memorialists. She originally supplanted them in error, but her true limits of power being *now* defined and elucidated, she cannot *continue* her assumed authority without wrong nor indeed with due regard to her moral dignity. In yielding as now requested, she is not asked to perform any judicial function nor to legislate for a special case. She is appealed to in her sovereign capacity to act upon her pretensions as any individual is, who is called on to retract his errors, and seeing that he has possessed himself of another's property in error, to restore it to him from whom he has thus taken it. The decision referred to unequivocally shews the invalidity of the States pretensions, the restoration therefore of the superseded authorities of the Institution is the necessary consequence, and the clearest dictate of honor, which bears no parley nor compromise in the opinion of the undersigned. *It becomes no sovereignty to linger in unlawful positions, nor to harrass the citizens with dilatory expedients and partial and reluctant redress, whom it has aggrieved by its erroneous assumptions.* The course of duty being thus suggested to the State by the first and best maxim of morals in the present issue with the Regents of the University of Maryland, we propose, with studied brevity, to make some explanations which may be demanded for the satisfaction of those who, although embarking in their consideration with profound respect for the laws, and with the general principles as here declared, to govern them, may wish to have all details elucidated, and doubts and difficulties which may have been suggested by extraneous circumstances or highly colored representations, removed.

The act of 1807, ch. 53, established a College of Medicine, and placed it under government of the Faculty of Physic, the constituents of the *College* and of the Board of Examiners of