

ORIGINAL CONTRIBUTIONS

A MEDICAL SLANDER CASE IN UPPER CANADA, 85 YEARS
AGO.

BY THE HONOURABLE MR. JUSTICE RIDDELL, L.H.D., LL.D., ETC.

AN action for slander by one medical man against another for calling in question his skill is not now often met with in the courts. There is a strong *esprit de corps*, which generally prevents such statements being made; and even when a charge of incompetence is made, generally common sense induces the maligned practitioner to "let sleeping dogs lie" and treat the charge with contempt. But this *esprit de corps* did not always characterize the profession, and the injured doctor did not always submit to unjust accusations. Accordingly, actions for such slanders are to be found scattered throughout the law reports.

I have thought that medical men might be interested in the first case of the kind of which we have a full account—the facts I take from the manuscript note book of Mr. Justice Sherwood, still kept at Osgoode Hall—it was tried Sept. 3rd, 1827, at Newark (Niagara.)

The plaintiff was James Hunter. From the date of the license to practice produced at the trial, he was, no doubt, the Dr. James Hunter of Whitby, who was afterwards mixed up with the Rebellion of 1837. He was born in England in 1790, and came to Canada in 1823, settling in the Niagara district. He does not seem to have studied medicine in England, but on this side of the Atlantic he attended Fairfield Medical College. This college was organized in 1809 at Fairfield, a small village not far from Little Falls, New York State. At this college was the first course of lecture of the celebrated Frank Hamilton given later on, in 1839. Most of its staff (including Hamilton) joined Geneva Medical College in 1840, and this college became the medical faculty of Syracuse University in 1872. At the period of Hunter's attendance, Fairfield Medical College had a very respectable standing as medical schools then went on this continent. He passed his examination before the Medical Board of Upper Canada and received his license to practice April 5th, 1826. The board was composed of five gentlemen appointed by the Lieutenant-Governor, under the provisions of the Act of 1818 (59 George III., c. 13) to examine all applicants for licenses to practice "physic surgery and midwifery, or either of them." They were Christopher Widmer, F.R.C.S., "the father of surgery in Upper Canada," who survived till 1858; Robert Kerr, an old army surgeon, who married Elizabeth, daughter of Sir William Johnson, and "Molly" Brant, sister of Joseph Brant; Grant Powell, a son of Chief Justice Powell, who studied at Guy's Hospital and passed the Apothecaries' Hall—after practising in New York State and in Montreal he became