

rule of ejusdem generis, I could have no hesitation in giving a negative answer to the first part of the question and an affirmative answer to the last part of the question as to the possibility of the words "to practise medicine" including cases where drugs, etc., may not be prescribed or administered.

MEREDITH, J.A.:— . . . Our first duty is to ascertain what, if any, jurisdiction the Court has in the matter. . . . The question referred is really whether *Regina v. Stewart*, 17 O. R. 4, was rightly decided; and that question is raised solely at the instance and in the interests of the medical profession of Ontario, under the name and style of "The College of Physicians and Surgeons of Ontario." The province is not directly interested in, and did not present, the case; nor indeed was it at all represented on the argument of it. . . .

The words of the Act are very broad—"May refer . . . any matter which he thinks fit to refer;" but obviously all that the broadest meaning of the words might cover cannot be meant. . . . The Act must, in my opinion, be restricted to (1) legal questions, (2) respecting matters within the jurisdiction of the Court, and (3) of provincial concern.

My conclusion . . . is: (1) that there was no power to refer the matter in question because it was one without the jurisdiction of this Court, or else that the order referring it was improvidently made, under the mistake that the question could not be brought up to this Court through the ordinary channels; and (2) that there was no power to refer it because it is not a provincial question, but one raised and referred wholly at the instance and for the benefit of the Ontario College of Physicians and Surgeons.

But, as a majority of this Court is of a different opinion, it becomes necessary to answer the question; and, in my opinion, it should be answered in accordance with the judgment of the Divisional Court in the case of *Regina v. Stewart*, 17 O. R. 4, first because it was so decided nearly 18 years ago, and that decision has ever since been deemed to have, and has been treated as having, settled the law upon the subject, and hundreds, if not thousands, of reputable persons have established themselves in business on