

YALE UNIVERSITY

JUN 5 1920

LIBRARY

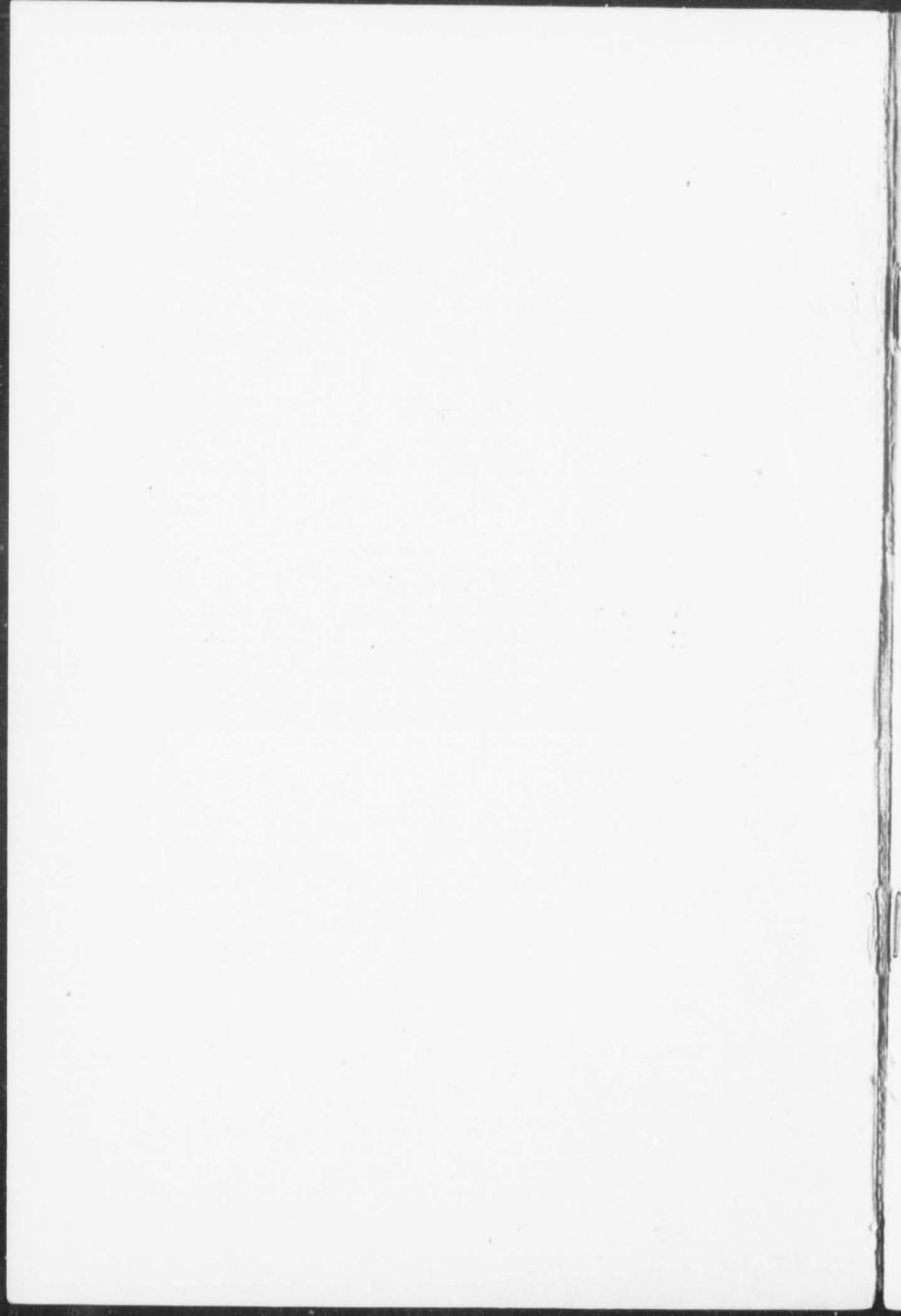
The Medical Profession in
Ontario

A LEGAL AND
HISTORICAL SKETCH

By the
HONOURABLE WM. RENWICK RIDDELL, L.H.D., etc.



REPRINTED FROM
CANADIAN JOURNAL OF MEDICINE AND SURGERY
TORONTO, SEPTEMBER, 1911



THE MEDICAL PROFESSION IN ONTARIO. A LEGAL AND HISTORICAL SKETCH*

BY THE HONOURABLE WILLIAM RENWICK RIDDELL, L.H.D., ETC.,
Justice, King's Bench Division, High Court of Justice, Ontario.

The history from a legal point of view of the medical profession in our Province is interesting both to physician and to lawyer. I have in some instances gone to the original sources, but make no pretence to originality: much of what I write has been said before by others (particularly by Dr. Canniff), and some by myself.

Our Province began its independent career as a separate Colony in 1792, having theretofore from 1763 been part of the Province of Quebec, which included a vast territory composed of what is now Quebec and Ontario and also the whole hinterland of the English colonies down to the mouth of the Mississippi.

Full legislative power was given to Upper Canada by the Constitutional Act, 31 George 3, C. 31, which separated the Province from the rest of British America.

At the time of this separation of our Province and for some time thereafter, there was no regulation as to who should practice medicine, or "physic," as it was called. Many of the practitioners were old army or navy surgeons, some were importations from the United States, but most of those who treated disease were mere empirics. There had, indeed, been an Act or Ordinance passed by the Council of the old Province of Quebec in 1788, forbidding anyone to practise without a license from the Governor, which license was to be granted without an examination to all graduates of any British university and to all surgeons of the army or navy—but this was largely a dead letter in the newer parts of the colony, as our country was at that time.

In 1795, the Provincial Parliament of Upper Canada passed an Act, 35 Geo. III., c. 1, forbidding the sale of medicine, prescribing for the sick and the practice of physie, surgery or midwifery by anyone who had not been licensed. The Governor was to appoint a board to examine all who should apply for a license, and those approved of by them upon the examination were to

*Prepared for the Ontario Medical Association meeting, May 31, 1911.

be granted a license—the fee being £2 currency, *i.e.*, \$8. A penalty of £10, *i.e.*, \$40, was imposed for selling medicines, prescribing for the sick or practising physic, surgery or midwifery without a license. An exception was made for surgeons or surgeons' mates in the army or navy, and for those who had been practising at the time of the passing of the Act of 1791—these however, were not to take apprentices or students. There is no record of anything ever having been done under these provisions; the Act was found unworkable, and it was accordingly repealed in 1806 by 46 Geo. III, c. 2, and the profession was again much at large, although the Act of 1788 already spoken of was still nominally in force. Much public dissatisfaction was the result, and at length a new Act was passed in 1815, 55 Geo. III, c. 10, which forbade prescribing for the sick or the practice of physic, surgery or midwifery without a license—saving the case of graduates of a university in British Dominions, surgeons and surgeons' mates in the British army or navy and those who had practised before 1791. The prohibition against these taking apprentices or students was not repeated in this Act, nor was the prohibition against selling, etc., medicines. And it was expressly provided that women might practise midwifery without a license. The Governor was to appoint an examining and licensing Board.

Nothing seems to have been done under this Act either; and it was repealed in 1818 by 59 George III, c. 13, which, however, contained much the same provisions. A board of five was to be appointed to hear and examine all persons who desired to practise physic, surgery and midwifery, or either of them, and, if satisfied, certify the same to the Governor, who would, if satisfied of the loyalty, integrity and good morals of the applicant, grant a license. But women were still to be allowed to practise midwifery without a license, and graduates of a British university and army and navy surgeons and surgeons' mates were still favoured. The Governor's Private Secretary was to receive 20 shillings—\$4, for each license.

A slight amendment was made in 1819 by 59 Geo. III, c. 2, whereby each applicant was to pay 10 shillings to the Secretary of the Board.

The first meeting of the Board took place January 4th, 1819, Messrs. James Macauley, Christopher Widmer, William Lyons

and Grant Powell, surgeons, being present; and the next day, John Gilchrist, of my own old Township of Hamilton, was examined and received a license to practice physic, surgery and midwifery. This gentleman was one of a well-known family of physicians, and was known in Cobourg and vicinity as "Dr. John." This Board, with a short interruption, continued to sit (with, of course, from time to time changes in personnel) until 1865. They examined with some rigor and granted certificates, sometimes for one, sometimes for two and sometimes for all three branches of the profession. Of those rejected, instances are to be found of many deficient in Latin and classical knowledge, several with a diploma from the Faculty of Physicians and Surgeons of Glasgow (one of whom was "quite ignorant of chemistry and pharmacy"), one with a diploma from the Apothecaries' Hall, one who had served five years' apprenticeship to an army surgeon, etc. It is quite plain that the examination was no mere formality.

In 1827, by 8 George IV., c. 3, the Act was amended and new provisions introduced—all those holding a license or diploma from a British university, or from the Royal College of Physicians or of Surgeons, London, or a commission or warrant as physician or surgeon in the British army or navy, were entitled to a license without examination; also those residing in Upper Canada before the war of 1812 who remained in the Province during that war and produced a certificate of their competency from three or more licensed practitioners. Practising without a license was made a misdemeanor.

In 1839, by 2 Vic., c. 38, all previous legislation was repealed, and those who had been members of the Board under the previous Acts were formed into a corporation to be known as "The College of Physicians and Surgeons of Upper Canada," of which the members were to be Fellows; all other persons then or thereafter authorized to practise physic, surgery and midwifery were to be Members of the College—and the College was to license. Provision was made that women might practise midwifery and that all with a diploma or license from any British university or from any College or Faculty of Physicians or of Surgeons in the United Kingdom, and also all army and navy surgeons, should receive a license, etc., etc.

The Fellows met from time to time, but owing to the efforts of the Royal College of Surgeons, London, the Act was disallowed by the Home authorities in 1840; and the former Act came into force again.

A new Board was commissioned by the Governor (Lord Sydenham); and examining and licensing went on as before.

In 1841, by 4 and 5 Vic., c. 41, it was provided that any person who was or should be licensed or authorized as a physician or surgeon, or both, either in Upper Canada or in Lower Canada, should be authorized to practise also in the other province.

In 1859, the statute 22 Vic., c. 47, recognizes for the first time homeopathy as a lawful system of medicine—five gentlemen (among them Dr. John Hall of Toronto) were appointed a Board to examine according to the doctrines and teachings of homeopathy—they issued a certificate upon which the Governor granted a license as in the case of practitioners of the regular school.

The Acts were consolidated in 1859, Con. Stat. U. C., c. 40, 41.

The Thompsonian or Botanic School, which was founded by Samuel Thompson in the '30's, and which had in the course of evolution become the Eclectic School, received legislative recognition a little later. In 1861, 24 Vic., c. 110, a Board of seven gentlemen (amongst them my own old preceptor, Richard Hare Clarke, M.D., of Cobourg) was formed to examine according to the doctrines and teachings of Eclectics. They were to certify, and the Governor to license, as in the case of the homeopaths.

All these Boards were abolished in 1865 by Act, 29 Vic., c. 34, which formed a "General Council of Medical Education and Registration of Upper Canada," composed of one representative from each of the colleges authorized to grant medical degrees—the University of Toronto, of Queen's College, of Victoria College and of Trinity College, and the Toronto School of Medicine, and also twelve elected by the profession. After the 1st of May, 1866, every practitioner was to be registered under this new Act—those entitled to registration were those formerly licensed in Upper or Lower Canada those certified from the four Upper Canadian universities or any university in British Dominions,

those having a diploma of the R. C. Surg., L., or R. C. Phys., L., registered under the Imperial Medical Act or commissioned as physician or surgeon in the British army or navy. The Council might fix the matriculation standard, and also the curriculum to be observed by the medical colleges.

This made the medical profession of all schools into one body in law.

An amending Act was passed the following year, 1866, 29 & 30 Vic., c. 54, chiefly affecting matriculation and the standard of medical studies.

Upper Canada ceased to exist and Ontario was born, 1st of July, 1867—less than two years thereafter the law was again changed: 32 Vic., c. 45, incorporated the profession into "The College of Physicians and Surgeons of Ontario," formed a Council composed of one representative each from the University of Toronto, Queen's University, University of Victoria College, University of Trinity College, Royal College of Physicians and Surgeons (Kingston) and Toronto School of Medicine: twelve representatives to be elected by the Regular School, five by the Homeopaths and five by the Eclectics. A Register was provided for; and all those actually practising before 1st January, 1850, and all those already registered, etc., were to be placed upon the Register; but for all future aspirants, a Board of Examiners was provided, to be elected by the Council, one from each teaching body and nine from other members of the College; and neither Homeopath nor Eclectic was to be examined in *Materia Medica*, Therapeutics, Theory or Practice of Medicine or in Surgery or Midwifery (except the operative practical parts thereof) by any but those approved by the representatives on the Council of his School of Medicine. The curriculum, etc., was fixed by the Council.

The repealing Act of 1874, 37 Vic., c. 30, re-enacted most of the provisions of the former Act of 1869, without substantial change—a provision is made for Homeopathic students attending Colleges in the United States or Europe, and the five Eclectic members of the Board were to continue such for five years, but to have no successors.

The Act of 1887, 50 Vic., c. 24, changes the Council—one member each is to be chosen by the University of Toronto,

Queen's University, University of Victoria College, University of Trinity College, the Royal College of Physicians and Surgeons (Kingston), the Toronto School of Medicine, Trinity Medical School, the Ottawa University, Regiopolis College and the Western University.

But while in the Act of 1874, the Council had power to refuse to register or remove from the register only those who had been convicted of felony, by this Act this power is given in cases in which the accused has been convicted either in Her Majesty's Dominions or elsewhere of an offence which if committed in Canada would be a felony or misdemeanor, or has been guilty of any infamous or disgraceful conduct in a professional respect. This provision has been considered by the courts on a recent occasion.

The provisions of the Act of 1891, 54 Vic., c. 26, are of no great importance: that of 1893, 56 Vic., c. 27, increased the representation of the regular profession to 17 members, and reduced the term from five years to four.

By the Act of 1895, 58 Vic., c. 28, the power of fixing tariffs was taken away from the Division Associations.

The number of representatives was increased from 17 to 18 by the Act of 1910, 10 Edw. VII., c. 77, which also excused the Council from the duty of making enquiry when any Court of Record in the Province had decided that any practitioner had committed a criminal offence in connection with his profession—upon receipt of proof of such decision, the Registrar was immediately to erase his name from the Register.

EDUCATION AND MEDICAL SCHOOLS.

In early days there were no medical colleges or schools in Upper Canada. Apprentices and students were received by practitioners; and those desiring to attend medical lectures were compelled to go to McGill, or to the United States or the mother country. What became the medical faculty of McGill seems to have been founded as a private enterprise in 1823 or 1824, and it became a College of McGill University in 1828.

Of those submitting themselves for examination by the Medical Board of Upper Canada, some produced diplomas from the College of Physicians and Surgeons, Glasgow: others from the

Apothecaries' Company, London; the Royal College of Surgeons, Edinburgh; the Royal College of Surgeons, Dublin; the Royal College of Surgeons, London; McGill College; University of Paris; University of Edinburgh; University of Maryland; University of Pennsylvania; University of Berlin; and tickets from lectures at Bowdoin College, Dartmouth College, *Fairfield College, University of New York, Berkshire Medical Institution (Massachusetts), Geneva Medical College (New York), University of Glasgow, Borough Hospital (London), Jefferson Medical College, Willoughby University (Ohio), &c., &c.

A University for Upper Canada had been projected as early as 1795. A Charter was obtained from George IV, 15th March, 1827, for the University of King's College, "at or near our Town of York in our said Province of Upper Canada," with power to grant degrees of Master of Arts and any degree in Divinity, Law or Medicine. This Charter was amended by the Provincial Legislature in 1837, March 4th, by the Act 7, Wm. IV., which annexed Upper Canada College and abolished religious distinctions and tests. The foundation stone was laid April 23rd, 1842, and the University formally opened June 8th, 1843, with (amongst others on the staff on paper) Professors of Chemistry, Anatomy and Physiology, Materia Medica, Obstetrics, Practical Anatomy and Surgery.

Lectures begun in January, 1844, with a staff in fact of six Professors—namely, Professors of Anatomy and Physiology, Theory and Practice of Medicine, Principles and Practice of Surgery, Obstetrics and Diseases of Women and Children, Materia Medica Pharmacy and Botany, and Practical Anatomy respectively. It is interesting to note that Dr. J. H. Richardson, so well known, and whose memory is so dear to many of us, was

*Fairfield Medical College began in 1809 as an unincorporated institution, known as the Academy of Medicine of Fairfield, at a small village, Fairfield, not far from Little Falls, N.Y. In 1812 it was granted a charter by the State Legislature, under the style "College of Physicians and Surgeons of the Western District of the State of New York," known as Fairfield Medical College. This, it is said, was the sixth medical college organized in the United States. From 1813 to 1829 lectures were given at Fairfield, Frank Hamilton delivering his first course of surgical lectures at its last session. Geneva Medical College, of Geneva, N.Y., had been chartered in 1824, and its first course of lectures was given in 1825. When Fairfield Medical College closed its doors (which it did after the session of 1839-1840) some of its Faculty, including Hamilton, joined the staff at Geneva. This College continued until 1872, when it removed to Syracuse, N.Y., becoming the Medical Faculty (College of Medicine) of the Syracuse University. This is still in active operation, with an attendance of about 150 students.

one of the two matriculated students at that first session. Dr. Richardson had previously studied under Dr. John Rolph in Rochester, N.Y., where this extraordinary man was practising, having been obliged to leave Upper Canada owing to the troubles of 1837. Dr. Rolph came back to Toronto in 1843, and took students who did not intend going to the University, and prepared them for the Medical Board. This resulted in his founding the "Toronto School of Medicine," certainly before 1848, and this school was incorporated in 1851 by Act 14 & 15 Vic., c. 155. No degree-conferring powers were granted, however.

The name of the University was in 1849 changed to the University of Toronto by the "Baldwin Act," 12 Vic., c. 82, and its completely non-denominational character established. In the following year, certain medical men organized another School of Medicine, "The Upper Canada School of Medicine." So that in 1850 there were in Toronto three schools of Medicine—the University Faculty of Medicine, the Toronto School of Medicine (Rolph's School), and the Upper Canada School of Medicine (Hodder's School). This last, during the same or the following year, became the Medical Faculty of the newly established Trinity University; and had its loens on the west side of Spadina Avenue just north of Queen Street.

The Medical Faculty of the University of Toronto did not last long thereafter. The Act of 1853, 16 Vic., c. 89, limited the functions of the University to examination and graduation, and instituted a College—University College—for Arts teaching, providing (Section 32), that after 1st of January, 1854, there should be no Professorship or Teachership of any of the branches of Medicine or Surgery except as part of a general system of liberal education. This provision the political gossip and scandal of the day charged as being due to the influence of Dr. Rolph, whose School was supposed to be suffering from the competition of the State University.

Rolph's School became, in 1855, the Medical Faculty of Victoria University; and having originally been at 53 Queen Street, in 1854 it removed to Richmond St. between Yonge and Bay Sts., and in 1857 went to the new College buildings in Yorkville.

Soon, too, the Trinity Faculty lapsed (that is, in 1856), and advantage was taken of the charter which Dr. Rolph had ob-

tained in 1851, but which was now no longer needed for his school, to organize a new school, in form and name a continuation of the old Toronto School of Medicine. This began operations in 1857 in affiliation with the University of Toronto; and Dr. Hodder soon took its presidency. He resigned this position to become Dean of the new Medical Faculty of Trinity University, which was organized in 1870-1871; but the Toronto School of Medicine continued under Dr. W. T. Aikins as President.

The Victoria Faculty lapsed in 1875; and the Trinity Medical Faculty became a separate body, "Trinity Medical School," by Statute in 1877, 40 Vic., c. 65.

The Ontario Medical College for Women began operations in 1884-1885 in Toronto, and another in Kingston a little later—while the Western University Medical Department at London was in operation by 1882-1883.

In 1887 the Toronto School of Medicine became, in substance, the Medical Faculty of the University of Toronto (though retaining its identity), and in 1903 the two Medical Schools, the Toronto School (then, in fact, the Medical Faculty of the University of Toronto) and the Trinity Medical College or School, became one, and were united as the Medical Faculty of the University of Toronto. The Ontario College for Women continued until 1906. In that year the University Medical Faculty arranged to provide women students with all the facilities enjoyed by men. The *raison d'être* of the College for Women thereupon ceased and that College closed its doors.

The Western University School still is in active operation.

The Medical College at Kingston began as the Medical Faculty of Queen's University.

A University with the name "The University of Kingston," had been incorporated by Provincial Act, 3 Vic., c. 35, in connection with the Church of Scotland, with power to confer degrees in all Faculties. This bill was disallowed by the Home authorities—for what had Presbyterians to do with a University?—but in 1841 the young Queen granted a charter to an institution under the name of "Queen's College at Kingston;" and that body was made the recipient of all the property of "the University at Kingston" by 9 Vic., c. 89.

The Medical Faculty of the new University began lectures

in 1854, graduating its first class in 1855. In 1866, however, the Medical Faculty separated from the University, having obtained legislation for that purpose, and the legislature having created a new Corporation, the Royal College of Physicians and Surgeons at Kingston, affiliated with Queen's University. This body again united with the University in 1892 and has since continued a Faculty of the University. The Women's Medical College at Kingston was also merged.

ANATOMY.

In olden times there was no provision for obtaining subjects for dissection, and many were the grewsome stories told about "resurrection men," and about doctors and their students robbing new-made graves. Some of these stories had a modicum of truth, but most were sheer fabrications.

In 1843 for the first time the Legislature interfered. The Act 7 Vic., c. 5, recites that it is impossible to acquire a proper or sufficient knowledge of surgery or medicine without a minute and practical acquaintance with the structures and uses of every portion of the human economy, which requires diligently pursued courses of dissection—and then provides that the bodies of those found dead publicly exposed, or who immediately before their death had been supported by or in any public institution, should—unless the person so dying should otherwise direct—be delivered to teachers of anatomy or surgery, either public teachers or private teachers having at least three pupils—and provided that *bona fide* friends or relatives might claim the bodies for interment. An Inspector of Anatomy was to be nominated for every city having a Medical School, who should keep a register of all unclaimed bodies given up for dissection and also of all medical men qualified to receive cadavers for dissection, inspect the dissecting rooms, &c., &c., being paid £1 5s.—\$5—for each body.

In 1863, by 26 Vic., c. 42, patients dying in a provincial lunatic asylum were excepted—they were to be decently interred.

The Act of 1885, 48 Vic., c. 31, gave the relations or *bona fide* friends of the deceased 48 hours to claim the body—and ordered the medical school receiving a body to keep it for five days; and if claimed within the five days it was to be given up. It was also forbidden to send or take any body out of Ontario for anatomical purposes.

In 1889, by 52 Vic., c. 24, the time for friends, &c., to claim a body was reduced to 24 hours—and these are now the provisions of the law. See R. S. O. (1897), c. 177.

The first dissecting room in Toronto seems to have been built in 1843 or 1844 for the Medical Faculty of King's College—and that Faculty first occupied a frame building on the north or west of the west wing of the College building.

HOSPITALS.

There was certainly a Military Hospital at Kingston from the time the British first took possession of that part of Canada. I do not find any record of a hospital in Toronto until about 1812, although no doubt one did exist—in 1819 an advertisement appeared in the official Upper Canada Gazette asking for tenders to build a Brick Hospital in the Town of York—it was erected soon after and acquired some note, the building being occupied for several sessions by the Legislature after the fire of 1824 had destroyed the Parliament Buildings.

In 1830 an Act was passed authorizing a grant of £100 to this Hospital.

In 1830 a public meeting was held at Kingston to build a public hospital, while in 1832 the Medical Board of Upper Canada speaks highly of the Hospital at York (Toronto), and the opportunity it affords medical students of observing diseases and their treatment. In this year the York Dispensary was established, but died in a year for lack of funds.

In 1844 the Board of Trustees of the Toronto Hospital offered the whole of the upper flat of the Hospital to the Medical Faculty of the University, but the terms could not be agreed upon. It then had a whole block of land bounded by King, Adelaide, John and Peter Streets.

By 1850 there were in Toronto not only the Toronto General Hospital, but also the Toronto Eye Infirmary (S. E. corner of Church and King Streets), the Toronto General Dispensary and Lying-in Hospital (established in 1848) and two other Maternity Hospitals.

Ever since the times I have been writing about, the Toronto and Kingston General Hospitals have been utilized by the teachers in the Medical Colleges for clinical instruction. So also in London for the Western University Medical Faculty.