

No. 67.

4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

An Act to amend the Act incorporating the Members of the Medical Profession in Lower Canada, and to regulate the Study and Practice of Physic and Surgery therein; to afford relief to certain persons, who were in practice as Physicians and Surgeons in this Province at the time when the said Act became law.

Received and read a first time, Thursday, 5th June, 1851.

Second reading, Monday, 9th June, 1851.

Mr. SANBORN.

TORONTO: PRINTED BY LOVELL AND GIBSON.

BILL.

An Act to amend the Act incorporating the Members of the Medical Profession in Lower Canada, and to regulate the Study and Practice of Physic and Surgery therein, to afford relief to certain persons who where in practice as Physicians and Surgeons in this Province at the time when the said Act became Law.

WHEREAS it is expedien^t to amend an Act passed in the Sesssion held in the tenth and eleventh years of Her Majesty's Reign, intituled, "*An Act to incorporate the Members of the Medical Profession in Lower Canada, and to regulate the Study and Practice of Physic and Surgery therein,*" to afford relief to certain persons who were in practice as Physicians and Surgeons in this Province at the time when the said Act became Law: Be it therefore enacted, &c.

10 That any person who was practising as a Physisian and Surgeon and Accoucheur in that portion of this Province heretofore Lower Canada, before and on the twenty-eighth day of July in the year of our Lord one thousand eight hundred and forty-seven, when the said cited Act became
15 Law, who had, at any time previous to the last mentioned date, obtained a Medical Degree or Diploma in any University, or College, shall be entitled to receive a license to practice Physic, Surgery and Midwifery in this Province without being subjected to any examination what-
20 soever.

Preamble.
10 and 11 V.
c. 26.
Certain persons in practice in Lower Canada, on 28th July, 1847, shall be entitled to a license without examination.

11. And be it enacted, That any person who was practising as a Physician and Surgeon in that portion of this Province heretofore Lower Canada, on the twenty-eighth day of July, in the year of Our Lord one thousand eight hundred and forty-seven, and who had been practising as such in this Province for ten years previous thereto, shall be entitled to receive a license to practice Physic, Surgery and Midwifery in Lower Canada, provided that
30 such person shall obtain a certificate of qualification in the form of the Schedule (A) hereunto annexed, signed by at least three licensed Physicians resident within the District where such person practised as aforesaid, without being subject to any examination or any other formality, any law to the contrary hereof notwithstanding.

Certain other persons in practice in Lower Canada on the said day, may obtain a license on certain conditions without examination.

How and when licenses under this Act shall be granted.

III. And be it enacted, That it shall be lawful for any person who may be entitled to receive a license to practise Physic, Surgery and Midwifery in this Province, under the provisions of this Act, to avail himself of this privilege by making application for such license to the 5 College of Physicians and Surgeons of Lower Canada, who are hereby authorized and required to grant such license, if the necessary proof that the said applicant is in a condition to avail himself of the provisions of this Act shall be adduced to them: Provided also, that the pro- 10 duction of a Medical Degree or Diploma purporting to be a Degree or Diploma from any University, or College, and the production of a certificate of qualification in the form of the Schedule (A) hereunto annexed, purporting to be signed by three or more licensed Physicians resi- 15 dent within the District where the said applicant resides, and the production of an affidavit of such applicant to the fact of his having practised as hereinbefore mentioned, purporting to be made and sworn before any Justice of the Peace as hereinafter specified, (which said writing or 20 documents shall be *prima facie* evidence of their own genuineness and shall be taken and considered to be in all respects what they respectively purport to be, either before any Court of Justice or before the College of Physicians and Surgeons of Lower Canada,) shall be 25 sufficient to entitle such person to a license as aforesaid.

Proviso: as to proof of Diploma, &c.

How the fact of the applicant's having practised shall be ascertained.

IV. And be it enacted, That it shall be lawful for any person entitled to a license as hereinbefore mentioned, to establish the fact of his having practised Physic, Surgery and Midwifery in that portion of this Province heretofore 30 Lower Canada, at any particular period or for any length of time, by making oath to such fact or facts before any Justice of the Peace in this Province, and such Justice of the Peace is hereby authorized and required to administer such oath if requested to do so. 35

Action given against the College to persons entitled to a license under this Act and refused.

V. And be it enacted, That it shall be lawful for any person who shall be entitled to receive a license to practise Physic, Surgery and Midwifery under this Act, if the College of Physicians and Surgeons of Lower Canada shall refuse to grant him a license to practise as aforesaid 40 after his having made application therefor and having conformed to the requisitions of the preceding sections of this Act, to institute an action in the Superior Court against the College of Physicians and Surgeons of Lower Canada, setting forth the several facts which so entitle 45 him to a license as aforesaid, and praying relief in the premises; and it shall be competent for the Superior Court, upon due proof being made of the said facts, by its judgment to declare such person entitled to a license to practise Physic and Surgery and Midwifery within Lower 50 Canada, and to award the costs of such action in favor of the plaintiff, against the College of Physicians

and Surgeons of Lower Canada, and such judgment shall confer upon the said person all the privileges and immunities which a license of the same purport from the College of Physicians and Surgeons of Lower Canada would or could confer: Provided also, that it shall be lawful for any person who may be prosecuted within twelve months from the passing of this Act, by the College of Physicians and Surgeons of Lower Canada, before any Justice of the Peace within Lower Canada, for practising Physic, Surgery or Midwifery without a license, to allege and prove in defence to such action the facts which would entitle him to a license to practice as aforesaid under the provisions of this Act, and if the said facts shall be duly proved, such Justice of the Peace shall dismiss such prosecution or action with costs against the College of Physicians and Surgeons of Lower Canada.

Proviso: facts which would entitle to a license to be a defence for practising without one.

VI. And be it enacted, That if any person shall forge the seal or signature or signatures to any Medical Degree or Diploma, hereinbefore mentioned, or shall tender in evidence any such Medical Degree or Diploma with a false or counterfeit seal or signature or signatures thereto, knowing the same to be false or counterfeit, or if any person shall forge the signature or signatures of any licensed Physician or Physicians or of a Justice of the Peace, to any certificate of qualification or affidavit hereinbefore mentioned, or shall tender in evidence before any Court of Justice, or before the College of Physicians and Surgeons of Lower Canada, any such certificate of qualification or affidavit with false or counterfeit signature or signatures, knowing the same to be false or counterfeit, every such person shall be guilty of felony, and shall, upon conviction, be liable to imprisonment in the Provincial Penitentiary for any term not less than two nor more than five years.

Forging Diploma, &c., to be felony.

SCHEDULE (A).

We the undersigned licensed Physicians, residing in the District of _____, in the Province of Canada, hereby severally certify that we believe C. D. of _____ in the County of _____ in the said Province, to be qualified to practise Physic, Surgery and Midwifery in Lower Canada.

Dated at _____ this _____ 18 _____