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No. 192.

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2nd Session, 6th Parliament, 22 Victoria, 1859.

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## BILL.

An Act to incorporate the Medical Profession in Upper Canada, under the name of the "College of Physicians and Surgeons in Upper Canada."

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Received and read, first time, Wednesday, 23rd  
March, 1859.

Second reading, Monday, 28th March, 1859.

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MR. AIKINS.

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TORONTO :

PRINTED BY JOHN LOVELL, YONGE STREET.

An Act to incorporate the College of Physicians and Surgeons of Upper Canada, and regulate the admission of the members thereof.

**W**HEREAS it is desirable that an uniform standard of professional attainments should be required of all persons practising the Medical Profession in Upper Canada; And whereas it has been represented by the Medical Board of Upper Canada that such want of uniformity is injurious to the best interests of the profession, and they have prayed for the establishment of an examining and licensing body, before which all persons desirous of engaging in the practice of the medical profession in Upper Canada shall appear for examination and license; And whereas the medical profession have expressed their desire for such amendment of the law, and for an Act incorporating the Medical Profession in Upper Canada, as the best means whereby these ends may be obtained; Therefore Her Majesty, &c., enacts as follows:

Preamble.

I. All laws immediately before the passing of this Act in force in Upper Canada in any way affecting the establishment of the Medical Board for Upper Canada, and the licensing of Practitioners of Medicine, Surgery and Midwifery, that is to say, the Acts of the Parliament of Upper Canada, 59 Geo. III., chapter 2 or 13, or 8 Geo. IV., chapter 3, and any other Act relating to the practice of medicine, are hereby repealed, but not the 4 and 5 Vic., cap. 41.

Former Acts repealed.

II. The members of the Medical Board for Upper Canada, and their successors, to be appointed as provided for by this Act, shall be and are hereby constituted a Body Politic and Corporate by the name of the "College of Physicians and Surgeons of Upper Canada," and shall have by that name perpetual succession and a Common Seal, with power to alter, change or renew the same at pleasure; by the same name they may sue and be sued in all courts of law or other places whatsoever, in as large, ample and beneficial a manner as any other body politic or corporate in this Province; and in all actions and suits at law which may at any time be brought against the said Corporation, service of process at the domicile of the President or Secretary of the said Corporation, shall be held to be a sufficient service for all legal purposes; and the said Corporation shall be able and capable in law to have, hold, receive, enjoy, possess and retain for the ends and purposes of this Act and the benefit of the said Corporation, all such sums of money as shall at any time be paid, given or bequeathed to and for the use of the said College; and the said Corporation shall by the same name, and at all times hereafter, have power to purchase, acquire, hold, possess and enjoy such lands and tenements as may be necessary for its use and occupation, and the same to

Medical Board incorporated.

General powers.

Real property.

sell, alienate and dispose of; and others in their stead to purchase, acquire and hold for the uses and purposes aforesaid.

Council of the Corporation.

III. The affairs of the Corporation shall be managed by a Board to be called "The Council of the College of Physicians and Surgeons of Upper Canada," elected in manner provided by this Act from among the resident registered members of this Corporation, in the various electoral divisions formed hereby; as the same may be prescribed by its By-laws, of whom shall be a quorum. 5

Officers.

IV. The officers shall be a President, two (or more) Vice-Presidents, Secretary, Treasurer—to be elected by the Council at the first meeting. 10

Powers of the Council.  
By-laws.

V. The Council shall have power and authority to make By-laws and regulations not contrary to law or to this Act, for the government and management of this Corporation and of the officers, licentiates, members and property thereof—for the enrolling and admission of students, licentiates and members—for the curriculum of studies to be pursued by students; for determining the preliminary education of such enrolled students, and for the appointment of a "Court of Examiners," to conduct such examinations and admissions, and for all purposes relating to the well-being and interests of said Corporation, and to amend or repeal them from time to time, as may be deemed necessary, provided that such By-law and regulations shall be published once in the Canada Gazette. 15 20

Examiners

Fellows: First election.

VI. The Members of the Council shall be styled Fellows, and shall be elected to serve for a period of three years: Provided that at the first Election, all Medical practitioners residing in the Electoral division in which such Election is held shall be entitled to vote, and the vote shall be taken by ballot. 25

Number of Fellows from each division.

VII. One fellow shall be elected in each division from among the resident registered Medical practitioners of the same for every Medical practitioners residing within its boundaries. If there be a less number than , they shall nevertheless be entitled to elect one Fellow. If there be one half more than such number necessary to elect one Fellow (or more than one half more), they shall be entitled to elect two Fellows; and so on for a greater number in like proportion. 30

How determined.

VIII. At any first Election the number of Fellows to be elected shall be determined according to the preceding proviso, from the whole numbers present. 35

Electoral divisions:

IX. An electoral division is a City, or a County or Union of Counties for Municipal purposes.

First election:

X. The first Election shall be held at noon on the first Wednesday of June, of this year; for the Counties in the County Court Room; for Cities, at the City Hall, and shall be conducted in the following manner: 40

Mode of holding it.

The Meeting shall be called to order by the appointment of a Chairman and Secretary;—the Secretary shall receive and register the names of all Medical practitioners present: their number being ascertained, the Chairman shall thereupon declare the number of Fellows to be elected, and call upon the Meeting to propose the names of such candidates as 45

they may desire to have elected, when a ballot shall be taken and the person or persons, as the case may be, having the highest number of votes, shall be deemed duly elected;—a certificate of such election shall be given, signed by the Chairman and Secretary, to the successful candidate or candidates, and the minutes of the meeting itself, certified by the Chairman and Secretary, shall be forwarded to the President of the Corporation. The Chairman shall be entitled to a vote in the event of a tie only. Each voter shall have the right of voting for the whole number of Fellows to be returned for that division.

10 XI. A Medical practitioner within the meaning of this Act, is a person licensed to practise Medicine, Surgery and Midwifery, under the provisions of the Law now existing in Upper Canada.

Who are  
Medical  
practitioners.

XII. The first Meeting of the Council shall be held at noon on the first Wednesday of July of this year, in the City of Toronto, at a place to be selected by the President of the Medical Board, to whom the minutes of Election referred to in section shall be sent.

First meeting  
of Council.

XIII. And whereas no provision has heretofore been in force in Upper Canada for the registration of Medical Practitioners, and by the powers conferred by this Act authority is given the Council to pass By-laws, providing for such registration, it is enacted. That at all elections of Fellows other than the first, only such Medical practitioners shall be voters as shall have complied with such By-law and registered themselves in the Books of the Corporation, according to the Schedule herunto annexed, and thereupon they shall become "Members" of the said Corporation. The Corporation shall be entitled to demand and receive for such registration and certificate the sum of dollars.

Recital.

Who shall  
vote at elec-  
tions after the  
first.

Fee.

XIV. The officers of the Council shall be *ex officio* members of the Court of "Examiners," which shall meet on the first Wednesday of April and October, each year, at such place as the Council may by By-law fix, for the purpose of examining and enrolling all persons desirous of enrolling themselves as students of the Medical profession, and further for the purpose of examining all persons desirous of practising the Medical profession, and being satisfied by such examination of the competency of such candidate, and that he is of good moral character, shall under the seal of the Corporation and signature of the President and Secretary grant to such candidate a License to practise the Medical Profession in Upper Canada, which License so granted shall be the only authority for practising the same; and for said License the Corporation shall be entitled to demand and receive from such candidate a sum not to exceed dollars, and for examining and enrolling a student a sum of not less than dollars.

Court of ex-  
aminers: its  
functions, &c,  
Students.

Practitioners.

XV. All examinations shall be open; and in the case of candidates for license, by written or printed questions and answers. The examiner may, nevertheless, at his option, make a *viva voce* examination on the same subjects. Provided, That the Court of Examiners shall, in the case of a candidate for license, confine their examinations to the following branches:

Examinations.

Subjects.

Chemistry, Anatomy, Physiology, Pathology, Diagnosis, Medical Jurisprudence, including Toxicology, Surgery and Obstetrics—unless the candidate desire to be examined in Materia Medica and Therapeutics.

Persons now entitled may obtain a licence.

XVI. All persons now resident in Upper Canada, and who might under existing laws obtain license to practise the medical profession therein, but who have neglected to do so, shall be entitled to license under the now existing law, if they apply within six months from the passing of this Act for the same.

5

Felony to forfeit Membership.

XVII. Any member of the said Corporation who shall have been convicted of any felony in any Court shall thereby forfeit his right to membership, and his name shall, at the next meeting of the Council of the College, be erased from their records or register.

Rights of licentiates.

XVIII. Every person becoming a licentiate under this Act shall be entitled to practise Medicine, Surgery and Midwifery, or either, or any of them in Upper Canada, and to demand and receive in any court of law, with full costs of suit, reasonable charges for professional aid and advice and visits, and the costs of any medicines or other medical or surgical appliances rendered or supplied by him to his patients.

15

Exemptions of practitioners.

XIX. Every licentiate or member of this Corporation, under the provisions of this Act, shall be exempt, if he shall so desire, from serving on all juries and inquests whatsoever, or from serving all municipal offices, and from serving in the militia, except professionally, and the name of such person shall not be returned in any list from which juries are struck.

20

Medical appointments to office to be made only from licentiates.

XX. After the passing of this Act no person shall be appointed as Medical Officer or Physician, or Surgeon in any public service, militia or otherwise, or in any hospital or other charitable institution not supported wholly by voluntary contributions, or any jail, unless he be a member under the provisions of this Act; nor shall any certificate required by any Act now in force, or that may hereafter be passed, from any Physician, Surgeon, or medical officer be valid, unless the person so making and signing the same shall have complied with the provisions of this Act.

25

Penalty for falsely pretending to be a licentiate.

XXI. Any person who shall wilfully and falsely pretend to be a member or licentiate of the Corporation hereby constituted, according to the full intent and meaning of this Act, or take, or use the name or title of a Physician, Doctor of Medicine, or Medical Practitioner or Surgeon, in such manner as to imply that he is such member or licentiate shall, upon conviction for each such offence, pay a fine not exceeding *one hundred dollars*.

35

Prosecutions under this Act, application of penalties.

XXII. Any penalty to which under this Act any person is liable, may be prosecuted for and recovered in the Court Quarter Sessions of the Peace—such penalty shall form part of the funds of the College, and shall be paid over to the President for the time being, who shall hand the same to the Treasurer, for the use and purposes of the said Corporation.

40

Public Act.

XXIII. This Act shall be deemed a public Act.

## SCHEDULE.

| <i>Name.</i>             | <i>Addition.</i>                       | <i>Date distinction.</i> | <i>Residence.</i>              |
|--------------------------|--|--------------------------|--------------------------------|
| John James West,         | A. M., K. C.                           | 7th July, 1859.          | Toronto, Co. York.             |
| Herman Smith,            | L. C. P., S. C. W.                     | 8th Jan'y, 1860.         | Mariposa, Co. Vic.             |
| Thomas Clyne<br>Johnson, | } M. R. C. S. Eng.<br>} M. D. Un. L'n. | 8th Jan'y, 1860.         | (tenac.<br>Kingston, Co. Fron- |