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No. 167.

3d Session, 3d Parliament, 13 & 14 Vict. 1850.

BILL.

A Bill 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, 11th
July, 1850.

Second Reading, Monday, 15th July, 1850.

Mr. SANBORN.

167.

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," and 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.

WHEREAS it is expedient to amend an Act passed in the Session 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.

Preamble.

10 and 11 V. c. 26.

- 10 That any person who was practising as a Physician 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 Law, who had, at any time previous to the last mentioned date, obtained a Medical Degree or Diploma in any University, College or Institution in the United States of America, shall be intituled to receive a license to practice Physic, Surgery and Midwifery in this Province without being subjected to any examination whatsoever.

Certain persons in practice in Lower Canada, on 28th July, 1847, shall be entitled to a license without examination.

- II. 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 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 licence on certain conditions without examination.

How and when
licences 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 licence 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 licence to the 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 production of a Medical Degree or Diploma purporting to be a Degree or Diploma from any University, College or Institution in the United States of America, 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 resident 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 herein-after specified, (which said writing or 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 sufficient to entitle such person to a license as aforesaid.

Proviso: as to
proof of Di-
ploma, &c.

How the fact
of the appli-
cant'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 facts of his having practised Physic, Surgery and Midwifery in that portion of this Province heretofore 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.

Actions given
against the
College to per-
sons 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 practice as aforesaid 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 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 Canada, and shall award the costs of such action in

favour 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 _____

185