

C A P. XVII.

AN Act to repeal a certain Act or Ordinance therein mentioned, and to provide effectual Regulations concerning the Practice of Physic, Surgery and Midwifery.

[31st March, 1831.]

Preamble.

Ordinance 28
Geo. 3, Cap.
8, repealed.

WHEREAS it is expedient to repeal an Act or Ordinance passed in the twenty-eighth year of the Reign of His Majesty George the Third, intituled, “ An Act or Ordinance to prevent persons practising Physic and Surgery within the Province of Quebec, or Midwifery in the Towns of Quebec and Montreal, without Licence,” and to provide more effectual Regulations with respect to persons practising Physic and Surgery within this Province, as well as Midwifery, and to regulate Druggists and others vending or distributing Medicines by retail: Be it therefore enacted by the King’s Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, “ An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty’s Reign, intituled, ‘ *An Act for making more effectual provision for the Government of the Province of Quebec, in North-America,*’ and to make further provision for the Government of the said Province ;” And it is hereby enacted by the authority of the same, that the said Act or Ordinance, passed in the twenty-eighth year of the Reign of His Majesty George the Third, intituled, “ An Act or Ordinance to prevent persons Practising Physic and Surgery within the Province of Quebec, or Midwifery in the Towns of Quebec and Montreal, without Licence,” shall be, and the same is hereby repealed.

Physician
&c. not to
practice with-
out a licence.

II. And be it further enacted by the authority aforesaid, that no person shall hereafter, under the penalty hereinafter mentioned, practice for gain or profit, as a Physician, Surgeon and Man Midwife in this Province, unless he shall have obtained a Licence or Commission to that effect, from the Governor, Lieutenant Governor or person administering the Government of this Province, in the manner hereinafter mentioned, or be otherwise authorized thereunto, pursuant to this Act.

Persons
studying Phy-
sic. and wish-
ing a licence to
undergo an
examination.

III. And be it further enacted by the authority aforesaid, that all persons who may be desirous of studying Physic or any branch thereof, with the view of ultimately procuring a Licence or permission to practise as Physician, Surgeon, or Apothecary

cary, in this Province, shall undergo an examination before the Board of Examiners of the District wherein he resides, that he knows his mother tongue, that he possesses the Latin language, and that he is in all other respects qualified to enter upon the study of the aforesaid profession.

Students in Medicine, who may have obtained a licence, and Physicians, &c. who may attend at the Board, for causing their diploma, licence or commission, to be examined, and for obtaining a certificate, to pay a certain sum of money for the same.

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IV. And be it further enacted by the authority aforesaid, that every Student in Medicine who shall have obtained from the said Examiners a certificate that he is duly qualified to be admitted and Licenced to Practise in any of the capacities aforesaid, as well as every Physician or Surgeon who shall attend the said Board, for the purpose of causing his Diploma, Licence or Commission to be examined, and of obtaining a certificate, enabling the Governor, Lieutenant Governor, or person administering the Government of the Province for the time being, to grant a Licence to the person obtaining such Certificate, shall pay to such persons, as shall be appointed by the said Examiners to receive the same, for such certificate the sum of twenty shillings currency, which sum shall be applied to defray the expences incurred by the said Board, as well in keeping the Register thereof, as in the execution of the several duties with which they are hereby charged; Provided always, that the person so producing before any such Board, the Diploma as Surgeon, or a Certificate of his having graduated in Physic, shall declare on oath before the said Board, (who are hereby authorized to administer the same,) that the Diploma or Certificate of graduation so produced by him, was granted to himself and not to any other person, and that he obtained the same after having studied the Science of Medicine during five successive years, and shall also state in such declaration whether he has practised since he obtained the said Diploma or Certificate, in what place and during what space of time he has so practised; And every person who shall wilfully make any false statement in any such declaration, shall on being legally convicted thereof, be deemed guilty of wilful and corrupt perjury, and incur the pains and penalties annexed to that offence by law.

No student in Medicine to obtain a licence unless of the age of 21 years, and having served a regular apprenticeship.

V. And be it further enacted by the authority aforesaid, that no Student in Medicine or Surgery and the Obstetric Art, shall obtain a licence as above, unless he shall have obtained the full age of twenty-one years, and have performed a regular and continued apprenticeship of at least five years, with some licenced Physician or Surgeon and Man-midwife, and practising as such in this Province, or in some Medical School or Institution teaching publicly.

Persons having been licenced as Physicians, &c. or having taken certain degrees in any university, &c. exempted from an examination.

VI. Provided always, and be it further enacted by the authority aforesaid, that every person whatsoever who shall have been duly licenced as a Physician or Surgeon, or who shall have taken a degree as such in any University or College of Surgeons, or Medical School or Institution teaching publicly, and every Physician, or Surgeon or Apothecary duly commissioned as such in His Majesty's Army or Navy, may be licenced as a Physician, or Surgeon or Apothecary and Man-Midwife in this Province,

Province, without undergoing an examination, but shall be previously held to produce and verify to the satisfaction of the Board, to be established in virtue of this Act, the original Diploma or Licence conferring such degree as aforesaid, or authorizing him to act as a Physician or Surgeon or Apothecary and Man-Midwife, or his Commission or Warrant as Physician, Surgeon, or Apothecary in His Majesty's Army or Navy: Provided that such Degree, Diploma or Licence from a University, College or other Medical Institution as aforesaid, shall have been obtained after a course of Medical study, performed in such University, College or Medical Institution, in conformity to the rules thereof, and after five years study at least, and not otherwise.

After the passing of this Act, no person to practice as an apothecary, &c. unless 21 years of age, and having served a regular apprenticeship.

VII. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, no person shall practice as an Apothecary, Chymist, Druggist, or Vender or Retailer of Medicines in this Province, unless he shall have attained the age of twenty-one years, and shall have served a regular and continued apprenticeship with some Physician, Surgeon, Apothecary, Chymist, Druggist, or Vender, or Retailer of Medicines in this Province, for at least three years, and have obtained a Licence from the Governor, Lieutenant Governor, or person administering the Government of the Province for the time being, after examination before the Board of Examiners as aforesaid, to be established, and after having been found in every respect a fit and proper person to be licenced as such.

Persons having commenced their apprenticeship as a Physician, &c. may avail themselves of such apprenticeship.

VIII. Provided always, and be it further enacted by the authority aforesaid, that every person having commenced his apprenticeship as a Physician, or Surgeon and Man-Midwife or Apothecary, before the passing of this Act, may avail himself of such apprenticeship, nor shall any thing in this Act contained, be construed to prevent the time during which he shall have so served from being reckoned and making part of the period during which he is required to serve by this Act.

Time fixed for the assembling of the several Licenced Physicians, Surgeons and man midwives residing in the district of Quebec and Montreal, to constitute a Board of Examiners.

IX. And be it further enacted by the authority aforesaid, that on the first Monday of July, after the passing of this Act, it shall be lawful for the several Licenced Physicians and Surgeons, and Man-Midwives, residing in the Districts of Quebec and Montreal, not actually employed or doing duty in His Majesty's Army or Navy, to assemble in the Cities of Quebec and Montreal, at such place as may upon petition for the purpose by any Licenced Physician or Surgeon and Man-Midwife, to the Governor, Lieutenant Governor, or person administering the Government of this Province, be fixed in the said Cities respectively, previous notice of three weeks at least, in some one or more of the Public Newspapers in each of the said Cities, being given of the time and place where such assembly shall be held, for the purpose of choosing by a majority of votes, twelve Licenced civil Physicians and Surgeons,

Surgeons, and Men-Midwives ; and at such assembly the oldest Physician, or Surgeon, and Man-Midwife present shall preside and receive the votes, and declare who are the Physicians and Surgeons, and Men-Midwives chosen and elected, and shall without delay, report their names to the Governor, Lieutenant Governor, or person administering the Government of this Province, for his approbation and consent ; and such approbation and consent being obtained, the persons so chosen and elected, shall constitute a Board of Examiners for examining every person thereafter applying for a License or Commission as a Physician, Surgeon and Man-Midwife, Apothecary, Chymist, Druggist, Vender or Retailer of Medicines in this Province, nor shall any person thereafter be Licenced as such until he shall have been examined as to his fitness, character or qualifications, pursuant to this Act, and found in every respect a fit and proper person to be Licenced as aforesaid.

Students wishing, to be examined to give notice to the Secretary of the Board, of their intention to appear for examination.

X. Provided always, and be it further enacted by the authority aforesaid, that when a Student who shall have completed his fifth year of study as aforesaid, shall desire to appear at the Board for his examination, he shall be bound to give notice thereof, to the Secretary of the said Board, at least one month before the day on which he proposes to appear, so that the Secretary may give public notice thereof in a Newspaper of the District, during three weeks at least, and that the examination which shall take place by virtue of this Act, shall be public and be had in a place which, during the time of any such examination shall be open to all persons who may wish to be present thereat.

Physicians, &c. residing in the District of Three-Rivers, may attend the meetings to be held at Quebec and Montreal.

XI. Provided always and be it further enacted by the authority aforesaid, that nothing in this Act contained shall be construed to prevent any Licenced and Practising Civil Physician or Surgeon and Man-Midwife, residing in the District of Three-Rivers, and in any other District of the Province, from attending annually and voting at either of the annual assemblies aforesaid, to be hereafter held at Quebec and Montreal, or from being eligible to serve as a member of either, but not of both of the said Boards at the same time.

Seven persons a sufficient number to constitute a quorum of the Board of Examiners.

XII. Provided always, and be it further enacted by the authority aforesaid, that any seven of the twelve persons who shall have been so as aforesaid chosen, elected and approved, shall constitute a quorum, and may do and transact the business of the said Board of Examiners, pursuant to this Act, and may meet for the purposes of this Act : Provided always, that the Physicians, Surgeons, and Men-midwives who shall compose the said Board, shall be bound to meet for the purposes of this Act, on the first Monday in every third month, (reckoning from the day on which the Board shall be first constituted,) at such place as shall be appointed for that purpose, in each of the said Cities respectively, and may from time to time at their said meetings, make such rules and regulations as shall be deemed fit and necessary

cessary concerning the said Board and the persons applying for the purpose of obtaining a Licence or Commission as aforesaid, such rules and regulations not being contrary to the Laws of this Province, nor to the true intent and meaning of this Act; and provided always, that any person who shall deem himself aggrieved by any thing done under the authority of the said rules and regulations shall have the right of appealing therefrom to the Court of King's Bench for the District.

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If the Election should by omission not take place, any other time may be appointed.

XIII. Provided also, and be it further enacted by the authority aforesaid, that if any election by this Act authorized, should, by omission or any unavoidable cause, not take place at the time herein appointed, the same may take place at any other subsequent time, which, upon petition as aforesaid, may, by the Governor, Lieutenant Governor, or person administering the Government of the Province, be fixed for the purpose, notice of the time and place as fixed being previously given, as above prescribed, the quarterly meetings of the Board nevertheless excepted, and if any of the meetings of the said Board shall fail, in default of a quorum, on the day appointed by this Act, it shall then be the duty of those members who shall be there assembled and unable to proceed in default of a quorum as aforesaid, to adjourn the meeting to a subsequent day, of which the Secretary shall be bound to give notice of in writing to all the members of the Board.

A re-election after every three years to take place.

XIV. And be it further enacted by the authority aforesaid, that every three years on the first Monday of the month of July, the licenced and practising Civil Physicians and Surgeons in each of the said Districts respectively, may assemble during the continuance of this Act, for the purpose of re-electing an equal number of licenced and practising Civil Physicians and Surgeons, to form the said Board of Examiners for the ensuing three years, and the Physicians and Surgeons so elected, declared and reported and approved, as above-mentioned, shall constitute for the ensuing three years the Board of Examiners pursuant to this Act.

How vacancies to be supplied.

XV. Provided always, and be it further enacted by the authority aforesaid, that if by the death or absence from the Province of any one of the said Examiners, a vacancy should happen in the said Board, such vacancy shall be filled by ballot at the next succeeding meeting of the said Examiners.

Penalty on Physicians practising without Licence.

XVI. And be it further enacted by the authority aforesaid, that every person practising for gain or profit as a Physician, Surgeon and Man-midwife, Apothecary, Chemist and Druggist, vendor or retailer of Medicines in this Province, without a Licence or Commission to that effect, or without being otherwise thereunto by this Act authorized, shall, for the first offence incur a penalty of ten pounds currency; for the second, a penalty of twenty pounds currency, and for the third and every subsequent offence, a penalty of thirty pounds currency; and on conviction of any of the said offences, before any Court of competent jurisdiction, shall stand committed

Proviso.

mitted to the Common Gaol of the District in which the offence shall have been committed, until the penalty be paid: Provided always, that nothing herein contained shall extend in any way to prevent from practising, any person licenced or commissioned at the time of the passing of this Act, as a Physician or Surgeon, and Man-Midwife, or any person distributing Medicines by retail, under and by virtue of the Ordinance herein before recited and hereby repealed, on his conforming in other respects to the provisions, true sense and meaning of this Act.

Licences of
Physicians to
be enregister-
ed.

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XVII. And be it further enacted by the authority aforesaid, that it shall be the duty of every person who shall, after the passing of this Act, receive a Licence or Commission to practice in this Province as a Physician or Surgeon and Man-Midwife, Apothecary, Chemist and Druggist, or vender or retailer of Medicines, before practising as such, to cause his Licence or Commission to be enregistered in the office of the Prothonotary of the Court of King's Bench, for the District in which he shall reside and intend to practice as aforesaid, under the penalty of five pounds currency, in case of neglect or disobedience hereunto; and for enregistering such Licence or Commission and for furnishing a Certificate thereof, the Prothonotary shall, as a compensation for their trouble, be intitled to the fee of two shillings and six-pence currency, and no more: Provided always, that every Physician or Surgeon and Man-Midwife, who shall intend to practice as such in any of the Country Parishes of this Province, shall be bound under the penalty aforesaid, before he shall exercise his profession there, to exhibit the Commission or Licence by which he is authorized to practice in this Province, to the Rector or Minister, and to the Justice of the Peace residing the nearest to the place in which such Physician or Surgeon and Man-Midwife shall intend to practice, in order that a note of such Commission may be kept, and that the said Justice of the Peace, Curé or Minister may give notice thereof to the inhabitants, by public notice, during two successive Sundays after Divine Service in the morning; or if there be no Church or Divine Service, at the most public place.

Penalties and
restrictions not
to extend to
prevent any
Physician or
Surgeon in the
United States
visiting occa-
sionally such
persons resid-
ing near the
Lines of this
Province.

This Act not
to extend to
Midwives in
this Province.

XVIII. Provided always, and be it further enacted by the authority aforesaid, that the restrictions and Penalties herein before mentioned, shall not extend to prevent any Physician or Surgeon residing within the United States and near the Province Line, and authorized under the laws of the said United States, to practice Physic or Surgery, from occasionally and in urgent cases visiting sick persons on this side the Province Line, or from prescribing for such persons when he shall be called upon to do so.

XIX. Provided always, and be it further enacted by the authority aforesaid, that nothing in this Act contained shall extend, nor be construed to extend, to women practising as Midwives in this Province.

Penalty on
Apothecaries,
&c. vending
adulterated
Medicines.

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XX. And be it further enacted by the authority aforesaid, that every person exercising the profession of Apothecary, Chemist and Druggist, and every vender or retailer of Medicines, in this Province, who shall vend or retail any Medicine which shall be adulterated, or which shall not be genuine, shall incur a penalty of five pounds currency, for the first offence, of ten pounds currency, for the second offence, and of twenty pounds currency for the third and every subsequent offence; and being convicted of any such offence, shall be imprisoned until such fine shall have been paid: Provided always, and under the penalties aforesaid, that no Apothecary, Druggist, vender or retailer of Medicines, shall visit any sick persons or prescribe for them; the right of such Apothecaries, Druggists, venders or retailers of Medicines, extending only to the vending of the articles required of them, without giving any direction whatever for the use thereof, but nothing herein contained shall prevent such Apothecaries from vending Patent Medicines with printed directions for the use thereof.

Not to sell Ar-
senic or any
poison unless
under a certi-
ficate from
some Justice of
Peace, &c.
specifying the
name of the
person requir-
ing the same.

Penalty.

XXI. And be it further enacted by the authority aforesaid, that no Apothecary, Chemist and Druggist, vender or retailer of Medicines in this Province, shall sell any arsenic or corrosive sublimate, or other article of mineral or vegetable, simple or compound poison, generally known under the denomination of rank poison, and which, incautiously or secretly administered, might cause immediate death, unless the person requiring the same shall produce from some Justice of the Peace, or from the Physician or Curé or Minister of the place where he resides, a certificate, note, or paper-writing, specifying the name, residence, and trade or profession of the person requiring such arsenic, corrosive sublimate, or other article of poison as aforesaid, addressed to such Apothecary, Chemist and Druggist, vender or retailer of Medicines; and any Apothecary, Chemist and Druggist, vender or retailer of Medicines, herein offending, shall for every offence, incur a penalty of ten pounds currency, and on being thereof convicted, shall stand committed until payment of the penalty; and such Apothecary, Chemist, and Druggist, vender or retailer of Medicines, shall keep and preserve, for his own justification, in case of need, every such certificate as aforesaid.

Apothecaries,
&c. to keep
such poison in
yellow bottles
with labels, un-
der a penalty.

XXII. And be it further enacted by the authority aforesaid, that every Apothecary, Chemist and Druggist, vender and retailer of Medicines in this Province, shall be bound carefully to keep in some private and safe place in his shop or dispensary, and in yellow bottles, so as to be clearly and easily distinguished, with proper and legible labels in large letters upon each bottle or vessel, in order to prevent mistakes, either by himself, his pupil, student, or other person entrusted with his shop or dispensary, all arsenic, or corrosive sublimate, or other such article of poison as aforesaid, generally known under the denomination of rank poison, under the penalty of five pounds currency, in case of disobedience, and shall be committed until payment of the same.

XXIII.

Board of Examiners may depute three persons to enter the shop of any apothecary, &c. to ascertain if the requirements of this Act have been complied with.

XXIII. And be it further enacted by the authority aforesaid, that the Board of Examiners to be established by virtue of this Act, shall have authority to depute and appoint any three persons, being Members of the said Board of Examiners, to enter the shop or dispensary of any Apothecary, Chemist and Druggist, vender and retailer of Medicines, in order to ascertain if the requirements herein above mentioned with respect to arsenic, corrosive sublimate, or other such article of poison as aforesaid, be complied with; and such Apothecary, Chemist, and Druggist, Vender and Retailer of Medicines, who shall refuse admittance at any hour of the day, between ten in the forenoon and four in the afternoon, to his Shop or Dispensary, to the persons authorized to the intent aforesaid, such persons producing and exhibiting a written authority to the intent aforesaid, shall for every such offence incur a penalty of five pounds currency, and on conviction, stand committed until payment of the same.

Penalties how recoverable and applied.

XXIV. And be it further enacted by the authority aforesaid, that the penalties imposed by this Act, may be sued for and recovered in a summary way, upon the evidence on oath of one or more competent witness or witnesses, other than the informer, before any Court of competent jurisdiction, in the District wherein the offence may be committed, at any time within three months next after the commission of the offence, and not afterwards; one half of which penalties shall go to the prosecutor or informer, and the other half to His Majesty, his heirs and successors.

Penalties appertaining to His Majesty applied for the public uses of the Province, and the application of the same to be accounted for to his Majesty.

XXV. And be it further enacted by the authority aforesaid, that the penalties by this Act imposed, appertaining to His Majesty, shall be reserved for the public uses of the Province, and for the support of the Government thereof; and the due application of the same, shall be accounted for to His Majesty, His Heirs and Successors, through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall be pleased to direct.

Continuance of this Act.

XXVI. And be it further enacted by the authority aforesaid, that this Act shall be in force until the first day of May, one thousand eight hundred and thirty-seven, and no longer.