

An Act respecting the profession of medicine and surgery.

Contributors

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Royal College of Surgeons of England

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10



CHAPTER .

An Act respecting the profession of Medicine and Surgery.

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:—

Short Title.

1. This Act may be cited as the "Medical Act."

Short title.

Constitution and Election of Council.

2. The members of the medical profession to be elected as hereinafter mentioned, shall be a body corporate under the name of "The Medical Council of British Columbia," and shall have perpetual succession, as hereinafter provided, and a common seal, with power to acquire, hold, and dispose of chattel property and real estate, for the purposes of this Act, and to sue and be sued. C. A. 1888, c. 81, s. 2.

The Medical Council of B.C. incorporated.

3. The persons entitled to vote at elections of members for the said Medical Council, shall be registered as Medical Practitioners in pursuance of this Act. C. A. 1888, c. 81, s. 3.

Persons entitled to vote.

4. No person shall be eligible to be elected a member of the Council unless he be registered in pursuance of this Act. C. A. 1888, c. 81, s. 4.

No unregistered person to be elected.

5. The number of persons to be elected as members forming the said Council shall be seven, and the mode of election shall be by voting papers as hereinafter mentioned. C. A. 1888, c. 81, s. 5.

Number of Council to be seven.

6. The charge and conduct of elections shall be under the management of the Registrar of the said Council. C. A. 1888, c. 81, s. 6.

Conduct of elections.

7. After the election of members for the Medical Council held in April, 1887, the election of members for the said Council shall take place on the last Monday in the month of April in each third year, at

Members of Medical Council to be elected triennially.

ASSOCIATIONS—MEDICAL.

such place as may be determined on by the Medical Council. The persons elected shall hold office until the next triennial election and until their successors be elected, and shall be eligible for re-election. C. A. 1888, c. 81, s. 7.

Voting. **8.** Every person entitled to vote may vote for seven persons. C. A. 1888, c. 81, s. 8.

Mode and time of voting. **9.** Such votes shall be given by closed voting papers in the form in the First Schedule to this Act, or to the like effect, signed by the voter and delivered to the Registrar of said Council on any of the twenty days preceding the day of election. Any voting paper delivered to the said Registrar by post during the respective times aforesaid shall be deemed delivered to him. C. A. 1888, c. 81, s. 9.

Counting votes. **10.** In respect of every election the members for the time being of the Council shall appoint, on the last Monday in April two persons, who, together with the Registrar of the Council, shall act as scrutineers at the election. On the day succeeding the day of election, the voting papers shall be opened by the Registrar, in the presence of the other scrutineers, who shall scrutinize and count the votes, and keep a record thereof in a proper book, to be provided by the said Council. C. A. 1888, c. 81, s. 10.

Tenure of office. **11.** The seven persons who have the highest number of votes at any election shall be the members of the Council until their successors are elected. C. A. 1888, c. 81, s. 11.

Voters may be present at count. **12.** Any person entitled to vote at any election shall be entitled to be present at the opening of the voting papers at such election. C. A. 1888, c. 81, s. 12.

Provision in case of equality of votes. **13.** In case of an equality of votes between two or more persons, which leaves the election of one or more of the members of the Council undecided, then the scrutineers shall forthwith put into a ballot-box a number of papers, with the names of the candidates having such equality of votes written thereon, one for each candidate, and the Registrar of the Council, in the presence of the scrutineers, shall draw by chance from such ballot-box one or more of such ballot papers, sufficient to make up the required number, and the persons whose names are upon such papers so drawn shall be such members. C. A. 1888, c. 81, s. 13.

No person to vote or be elected unless his fees are paid. **14.** No person shall be entitled to vote at any election unless all his fees to the Council have been paid. No person shall be eligible for election unless qualified to vote at such election, and any votes cast for any person who is ineligible to be elected a member shall be null and void, and the election shall be declared as if such votes had not been cast. C. A. 1888, c. 81, s. 14.

ASSOCIATIONS—MEDICAL.

15. In the event of any person placing more than seven names on his voting paper, the first seven shall be taken, notwithstanding any of such seven so named shall be ineligible for any election for any cause whatever. C. A. 1888, c. 81, s. 15. Void votes.

16. The Registrar of the Council shall, on the second Monday of the month of April in which the election may be held, make out an alphabetical list or register of the medical practitioners who are entitled to vote at the election then about to be held, and such register may be examined at all reasonable times. In case any medical practitioner, entitled by this Act to vote, complains to the Registrar of the Council in writing of the improper omission or insertion of any name in the said list it shall be the duty of the Registrar of the Council forthwith to examine into the complaint, and rectify such error, if any there be; and in case any person is dissatisfied with the decision of the Registrar, he may appeal to a Judge of the Supreme Court in a summary way, and the decision of such Judge shall be final, and such list shall remain or be altered in accordance with such decision. C. A. 1888, c. 81, s. 16. List of voters.
Rectification of errors.

17. The list or register so to be made out shall be held to be the register of persons entitled to vote at the next election, and no person shall be entitled to vote whose name is not upon such register. C. A. 1888, c. 81, s. 17. No unregistered person to vote.

18. The members of the Council may make such regulations as they consider expedient, not contrary to the provisions of this Act, for regulating the procedure under the preceding sections of this Act. C. A. 1888, c. 81, s. 18. Rules to be made for future elections.

19. The voting papers belonging to any election shall not be destroyed until after all petitions in respect to such election have been decided, but the same, together with all other papers in connection with the election, shall be retained by the Registrar. C. A. 1888, c. 81, s. 19. Custody of voting papers.

20. No petition against the return of any member shall be entertained unless such petition be filed with the Registrar of the Council within ten days after the election, and shall contain a statement of the grounds on which such election is disputed, and unless a copy of such petition is served upon the member whose election is disputed within ten days from the day of election. C. A. 1888, c. 81, s. 20. Controverted elections.

21. Any such petition shall be disposed of in a summary way by any Judge of the Supreme Court, who may dismiss the petition, or may decide it to be well founded, in which case the person whose name is next in the order of votes of eligible candidates shall be declared elected. C. A. 1888, c. 81, s. 21. Disputed elections, how dealt with.

ASSOCIATIONS—MEDICAL.

Appointment of officers.

22. The members of the Council shall, within seven days after their election, from amongst themselves, elect a President, Treasurer, and Registrar and Secretary, and whenever a vacancy occurs in any of such offices shall elect one of the persons registered, or other person qualified for election under this Act. C. A. 1888, c. 81, s. 22.

Vacancies by death or resignation, &c., provided for.

23. In case of the failure in any instance to elect the requisite number of duly qualified members of the Council, or in case of any vacancy caused by the death or resignation of any member of the Council, or by any other cause, then it shall be the duty of the remaining members to supply the deficiency by appointing to such vacant place or places, as the same may occur, any person or persons duly qualified, according to the provisions of this Act, to be elected as a member or members of the Council. C. A. 1888, c. 81, s. 23.

Rules and regulations may be made.

24. The members of the Council may from time to time make, alter or amend and repeal, rules and regulations for the well-being and discipline of the Council, the conduct of its affairs, and the promotion of medical and surgical knowledge, and the disposition of the funds of the Council, provided such rules and regulations be not repugnant to the provisions of this Act. C. A. 1888, c. 81, s. 24.

Council funds.

25. All moneys forming part of the Council funds shall be paid to the Treasurer, and may be applied to carry this Act into execution. C. A. 1888, c. 81, s. 25.

Registration.

Appointment of Registrar and establishment of a register.

26. The Council shall cause to be kept by an officer appointed by them, and to be called the "Registrar," a book or register in which shall be entered the name of every person registered according to the provisions of this Act, and from time to time the names of all persons who have complied with the enactments hereinafter contained, and with the rules and regulations made, or to be made, by the Council respecting the qualifications to be required from practitioners of medicine or surgery in this Province, and those persons only whose names are inscribed in the book or register above mentioned shall be deemed to be qualified and licensed to practice medicine or surgery in this Province, except as hereinafter provided, and such book or register shall at all times be open and subject to inspection by any person. C. A. 1888, c. 81, s. 26.

Inspection of register.

Amendment of register.

27. It shall be the duty of the Registrar to keep his register correct in accordance with the provisions of this Act, and the rules, orders and regulations of the Council, and he shall from time to time make the necessary alterations in the addresses or qualifications of the persons registered under this Act, and the said Registrar shall perform such other duties as may be imposed upon him by the Council. C. A. 1888, c. 81, s. 27.

ASSOCIATIONS—MEDICAL.

28. Every person who is now registered under the provisions of the "Medical Ordinance, 1867," shall be entitled to be registered under this Act. C. A. 1888, c. 81, s. 28.

Re-registration of persons already registered.

29. The Council shall admit upon the register any person who shall produce from any college or school of medicine and surgery, requiring a three years' course of study, a diploma of qualification; provided also, that the applicant shall furnish to the Council satisfactory evidence of identification, and pass before the members thereof, or such of them as may be appointed for the purpose, a satisfactory examination touching his fitness and capacity to practice as a physician and surgeon. C. A. 1888, c. 81, s. 29.

Qualification for and mode of registry.

Examination when necessary.

30. The Council shall admit upon the register every person mentioned in chapter 48 of the Acts of Parliament of the United Kingdom, passed in the 49th and 50th years of Her Majesty's reign, duly registered under the "Medical Act" (Imperial) prior to and inclusive of the 30th day of June, 1887, upon complying with the orders, regulations, or by-laws of the Council, and giving due proof of such registration, and that the person applying for registration has not lost the benefit of same by reason of misconduct or otherwise, and upon payment of the fees fixed by the Council, not to exceed one hundred dollars 1893, c. 27, s. 2.

Admission of persons mentioned in 49 and 50 Vict., c. 48 (Imperial), registered under "Medical Act" (Imperial).

31. The members of the Council shall from time to time, as occasion may require, make orders, regulations, or by-laws for regulating the register to be kept under this Act, and the fees to be paid for registration, and shall from time to time make rules and regulations for the guidance of the examiners, and may prescribe the subjects and modes of examination, and generally may make all such rules and regulations in respect of examinations, not contrary to the provisions of this Act, as they may deem expedient and necessary. C. A. 1888, c. 81, s. 31.

Powers of the Council to make rules and regulations.

32. Any registered medical practitioner who has been convicted of any felony in any Court shall thereby forfeit his right to registration, and by the direction of the Council his name shall be erased from the register; or in case a person known to have been convicted of felony presents himself for registration, the Registrar shall have power to refuse such registration. C. A. 1888, c. 81, s. 32.

Registered practitioner guilty of felony.

33. Every person registered under the provisions of this Act shall be entitled to practice medicine and surgery, including midwifery, or any one of them, as the case may be, in the Province of British Columbia, and to demand and recover in any Court of the Province, with full costs of suit, reasonable charges for professional aid, advice, and visits, and the costs of any medicine or other medical or surgical appliances rendered or supplied by him to his patients. C. A. 1888, c. 81, s. 33.

Rights of registered persons.

Register to be printed and published.

34. The Registrar of the Council shall, from time to time, under the direction of the Council, cause to be printed and published a correct register of the names in alphabetical order, according to the surnames, with the respective residences, in the form set forth in the Second Schedule of this Act, or to the like effect, together with the medical titles, diplomas and qualifications conferred by any college or body, of all persons appearing on the register as existing on the day of publication, and such register shall be called "The British Columbia Medical Register," and a copy of such register for the time being, purporting to be so printed and published as aforesaid, shall be *prima facie* evidence in all Provincial Courts, and before all Justices of the Peace, and all others, that the persons therein specified are registered according to the provisions of this Act and subject to the provisions of sub-section (2) of this section; the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this Act:

Register to be *prima facie* evidence in all Courts.

(2.) In case of any person whose name does not appear in such copy, a certified copy, under the hand of the Registrar of the Council of the entry of the name of such person on the register, shall be evidence that such person is registered under the provisions of this Act. C. A. 1888, c. 81, s. 34.

Qualified homœopathic physician may be registered under this Act on passing certain examination.

35. Any homœopathic physician holding a diploma of qualification from any authorized school or college requiring a three years' course of study may be registered under this Act, and such homœopathic physician shall not be bound to pass the examination required by Section 29 of this Act, but in lieu of such examination he shall pass, before the Council, or such of them as may be appointed for that purpose, a satisfactory examination in the following subjects, viz.: Anatomy, physiology, pathology, chemistry, obstetrics, and surgery. 1890, c. 30, s. 2.

Fees for Registration.

Registration fees.

36. The fee for registration under this Act shall be such sum as is now fixed or may from time to time be fixed by the Council, by resolution or by-law, but not exceeding one hundred dollars. C. A. 1888, c. 81, s. 36, *in part*; 1893, c. 27, s. 1.

Fees.

37. All fees heretofore paid for registration under the "Medical Act," by resolution, order, regulation, or by-law of the Council, or otherwise, are hereby declared to have been lawfully imposed and exacted, and to form part of the funds of the Council. 1893, c. 27, s. 4.

Offences and Penalties.

Those entitled to register and neglecting to do so.

38. Any person entitled to be registered under this Act, but who neglects or omits to be so registered, shall not be entitled to any of the rights or privileges conferred by registration under the provisions of

ASSOCIATIONS—MEDICAL.

this Act, so long as such neglect or omission continues, and he shall be liable to all the penalties imposed by this Act or any other Act in force against unqualified or unregistered practitioners. C. A. 1888, c. 81, s. 37.

39. If the Registrar makes or causes to be made any wilful falsification in any matter relating to the register, he shall incur a penalty of fifty dollars, and shall be disqualified from again holding that position. C. A. 1888, c. 81, s. 38. Penalty on Registrar for falsification.

40. If any person procures, or causes to be procured, his registration under this Act by means of any false or fraudulent representation or declaration, either verbally or in writing, it shall be lawful for the Registrar upon receipt of sufficient evidence of the falsity or fraudulent character of said representation or declaration to represent the matter to the Council, and, upon the written order of the President, attested by the seal of the Council, to erase the name of such person from the register and to make known the fact and cause of such erasure by notice to be published in the British Columbia Gazette; and after such notice has appeared, the person whose name has been erased as aforesaid shall cease to be a registered practitioner under this Act, and shall cease to enjoy any of the privileges conferred by registration under this Act at any future time without the express sanction of the Council. C. A. 1888, c. 81, s. 39. Penalty for false registration.

41. If any person wilfully procures or attempts to procure himself to be registered under this Act, by making any false or fraudulent representation or declaration, either verbally or in writing, he shall, on conviction thereof before any two Justices of the Peace, incur a penalty not exceeding one hundred dollars; and every person knowingly aiding and assisting him therein shall, on conviction thereof, incur a penalty of not less than twenty nor more than fifty dollars for each such offence. C. A. 1888, c. 81, s. 40. Penalty for false declaration, &c.

42. It shall not be lawful for any person not registered to practise medicine or surgery for hire, gain, or hope of reward; and if any person not registered pursuant to this Act, for hire, gain, or hope of reward, practises or professes to practise medicine or surgery, or advertises to give advice in medicine or surgery, he shall, upon a summary conviction thereof before any Justice of the Peace, for any and every such offence, pay a penalty not exceeding one hundred dollars, nor less than twenty-five dollars. C. A. 1888, c. 81, s. 41. Penalty for practising without registration.

43. Any person who wilfully or falsely pretends to be a Physician, Doctor of Medicine, Surgeon, or general practitioner, or assumes any title, addition or description other than he actually possesses and is legally entitled to, shall be liable, on conviction thereof before a Justice of the Peace, to a penalty not exceeding fifty dollars nor less than ten dollars. C. A. 1888, c. 81, s. 42. Penalty for falsely pretending, &c.

ASSOCIATIONS—MEDICAL.

Penalty for using title implying registration.

44. Any person not registered pursuant to this Act who takes or uses any name, title, addition, or description, implying or calculated to lead people to infer that he is registered under this Act, or that he is recognized by law as a Physician, Surgeon, or a Licentiate in Medicine or Surgery, shall be liable, upon summary conviction thereof before any Justice of the Peace, to pay any penalty not exceeding one hundred dollars nor less than twenty-five dollars. C. A. 1888, c. 81, s. 43.

None entitled to recover charges unless registered.

45. No person shall be entitled to recover any charge in any Court of Law for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine which he may have prescribed, unless he is registered under this Act. C. A. 1888, c. 81, s. 44.

Public appointments only conferred on registered persons.

46. No person shall be appointed as Medical Officer, Physician or Surgeon in any branch of the public service of this Province, or in any hospital or other charitable institution not supported wholly by voluntary contributions, unless he is registered under the provisions of this Act. C. A. 1888, c. 81, s. 45.

Certificate by un-registered persons invalid.

47. No certificate required by any Act now in force, or that may hereafter be passed, from any Physician or Surgeon or Medical Practitioner, shall be valid unless the person signing the same is registered under this Act. C. A. 1888, c. 81, s. 46.

Where prosecution may be brought.

48. Any prosecutions under this Act may be brought or heard before any one or more of Her Majesty's Justices of the Peace having jurisdiction where any such offence has been committed; and such Justice or Justices may award payment of costs in addition to the penalty; and in case the penalty and costs awarded by him or them are not, upon conviction, forthwith paid, may commit the offender to the common gaol, there to be imprisoned for any term not exceeding one month, unless the penalty and costs are sooner paid. C. A. 1888, c. 81, s. 47.

Onus probandi.

49. In any prosecution under this Act, the burden of proof as to registration shall be upon the person charged. C. A. 1888, c. 81, s. 48.

Evidence of registry and signature of Registrar.

50. In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the Registrar of the Council for the time being, shall be sufficient evidence of all persons who are registered practitioners, in lieu of the production of the original register; and any certificate upon such printed or other copy of the register, purporting to be signed by any person in his capacity of Registrar of the Council under this Act, shall be *primâ facie* evidence that such person is such Registrar, without any proof of his signature or of his being in fact such Registrar. C. A. 1888, c. 81, s. 49.

ASSOCIATIONS—MEDICAL.

51. Every prosecution under this Act shall be commenced within six months from the date of the alleged offence. C. A. 1888, c. 81, s. 50. Limitation of prosecutions.

52. The Council by an order signed by the President having the seal of the Council appended thereto, may stay proceedings in any prosecutions under this Act where it is deemed expedient. C. A. 1888, c. 81, s. 51. Stay of proceedings.

53. Every legally qualified medical practitioner shall pay annually to the Medical Council of British Columbia on or before the first day of March in each year, the sum of ten dollars, or such other sum as may be from time to time fixed by the Council, and shall obtain from the Registrar of the Council a certificate under the seal of the said Council of the payment of the same. Upon payment of such fee the Registrar shall issue such certificate. In default of payment of the said fee, the Registrar of the Council for the time being may sue for the recovery of the same in his own name in any County Court having jurisdiction where the defendant resides. C. A. 1888, c. 81, s. 53, *in part*; 1890, c. 30, s. 2. Annual fee of \$10, to be paid by Medical Practitioners.

Subjects for Anatomy.

54. The body of any person found dead, publicly exposed, or who immediately before death had been supported in and by any public hospital receiving pecuniary aid from the Government of this Province shall, unless the person so dying otherwise directs, be delivered to persons qualified as hereinafter mentioned, for the purposes of dissection. But if such body be claimed within the usual period for interment by bonâ fide friends or relatives, the body shall be delivered to them; or if the person otherwise directed as aforesaid before death, the body shall be decently interred, as heretofore. C. A. 1888, c. 81, s. 54. What bodies may become subjects for dissection.

55. The persons qualified to receive such unclaimed bodies, shall be such medical practitioners as are duly qualified to practise, and are actually practising under the provisions of this Act, who may require such bodies for dissection, either for their own improvement or the instruction of any student or students under them, or to the teachers of surgery and anatomy in any public or private School, College, Society, or Faculty of Medicine or Surgery, that may hereafter be established in this Province. C. A. 1888, c. 81, s. 55. Declares who are entitled to receive the same.

56. The person in charge of any and every such public hospital as aforesaid, and the Coroner of each district, shall forward to the Registrar-General of Titles the name, age, sex, birth-place (if it can be ascertained), and date of death of all unclaimed bodies given up by them respectively for dissection under this Act, within one week from the time of giving up such bodies as aforesaid. C. A. 1888, c. 81, s. 56. Description of unclaimed bodies given up for dissection to be sent to Registrar-General of Titles.

ASSOCIATIONS—MEDICAL.

Medical men entitled to receive bodies, to be registered by the Registrar-General of Titles.

57. It shall be the duty of the Registrar-General of Titles to enter in a book to be kept for that purpose by him, the name and residence of all medical practitioners qualified to receive and desirous of receiving bodies for dissection; and also to enter from the returns forwarded to him by the person or persons in charge of the public hospitals, and of the Coroners, in a register to be kept for that purpose, the name, age, sex, birth-place, and date of death of all persons mentioned in such returns, with the name and place of residence of the practitioner to whom the body was delivered as aforesaid. C. A. 1888, c. 81, s. 57.

Provides for reference to register.

58. Such returns, book, and register shall be open at all reasonable hours for the inspection of any medical practitioner who may desire to inspect the same, on payment of a fee of fifty cents. C. A. 1888, c. 82, s. 58.

Bodies to be impartially distributed.

59. The person or persons in charge of the public hospitals as aforesaid, and the Coroners, shall make an impartial distribution of the bodies, in rotation, according to the actual wants of the claimants. C. A. 1888, c. 81, s. 59.

Receipt to be given for body, and fee paid.

60. On delivery of every such unclaimed body as aforesaid, the person or persons in charge of the hospital, or the Coroner, as the case may be, shall take from the medical practitioner receiving the body a receipt in the Form A in the Third Schedule to this Act; and such practitioner shall pay the sum of ten dollars to the person from whom he receives the body, and take a receipt therefor in the Form B in the said Schedule; and such sum shall in every case be applied towards the support and maintenance of the public hospitals in the Province. C. A. 1888, c. 81, s. 60.

Coroner may give unclaimed body to be dissected.

61. The Coroner who presides at the inquest on any body found publicly exposed, and unclaimed by bonâ fide friends or relatives, shall deliver up the body to any medical practitioner (on application by him) duly qualified to receive the same under this Act. C. A. 1888, c. 81, s. 61.

Medical practitioners availing themselves of this Act, to give security to Registrar-General of Titles.

62. Every medical practitioner wishing to avail himself of the benefits of the eight last preceding sections of this Act shall appear before the Registrar-General of Titles, and give security, himself in the sum of one hundred dollars, and two sureties in the sum of fifty dollars each, for the decent interment of the bodies after they have served the purposes required. C. A. 1888, c. 81, s. 62.

ASSOCIATIONS—MEDICAL.

FIRST SCHEDULE.

MEDICAL ACT.

Voting Paper.

FOR ANNUAL ELECTION, 18 .

I, *John James Brown*, a registered medical practitioner, vote for the seven persons hereinafter named to form the members of the Medical Council of British Columbia :

1. George Courtney, Victoria.
2. William Jenner, New Westminster.
3. Thomas Morgan, Nanaimo.
4. John Mitchell, Cowichan.
5. Francis Jones, Kamloops.
6. Theophilus Smith, Victoria.
7. Andrew Brown, Victoria

And I declare that I am entitled to vote at this election, and am not in default in payment of my fees to the Council.

Dated, April, 18 .

JOHN JAMES BROWN.

Witness :

HORACE YOUNG.

C. A. 1888, c. 81, First Sch.

SECOND SCHEDULE.

Name.	Residence.	Qualification.
A. B.	Lytton	M. A. M. D., Toronto University.
C. D.	Kamloops	M. D., Glasgow, Scotland.
E. F.	New Westminster	L. S. A., London, England.
G. H.	Victoria	M. D., New York, U. S.

C. A. 1888, c. 81., Second Sch.

ASSOCIATIONS—MEDICAL.

THIRD SCHEDULE.

FORM A.

Received from (*Coroner, or the person, &c., &c.*) the body of (*name, age, sex, &c., &c.*) for the purpose of dissection and anatomical instruction.

Dated the _____ day of _____, A.D. 18 .
 Witness

FORM B.

Received of (*medical practitioner's name*) the sum of _____ dollars, for the body of (*name, age, sex, &c., &c.*) and I hereby certify that the said body has not been claimed by bonâ fide friends or relatives.

Dated the _____ day of _____, A.D. 18 .
 Witness,

C. A. 1888, c. 81, Sch.

Proposed to be Consolidated.	Part Consolidated.	Left for Repeal.	To be Consolidated elsewhere.	To be Consolidated with.
Con. Acts, c. 81	Whole Act.			
1890, c. 30	ss. 2 and 3.	s. 1.		
1893, c. 27	Whole Act, except s. 5.	s. 5.		

VICTORIA, B. C. :

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 1895.