

LAWS OF THE STATE REGULATING ADMISSION TO THE MASSACHUSETTS MEDICAL SOCIETY.

At a meeting of the Councillors of the Massachusetts Medical Society, held in Boston, October 5th, 1870, the Committee, to whom was referred the Report of the Delegates to the American Medical Association, and other papers, made a Report; and that portion of their Report which related to the Laws of the State regulating the admission of members into the Society was referred to the Standing Committee on Publications, with instructions to publish as much thereof as appeared to them of general interest. The following extracts are therefore sent to the Boston Medical and Surgical Journal for publication:—

In the year 1781, the Legislature of the Commonwealth of Massachusetts passed an Act that certain persons therein named "be, and they hereby are formed into, constituted and made a body politic and corporate by the name of the Massachusetts Medical Society; and that they and their successors, and such other persons as shall be elected in the manner therein mentioned, shall be and continue a body politic and corporate by the same name forever." (Special Laws of 1781, chapter 15.)

In this Act certain privileges are granted to the Fellows of said Society, and certain duties enjoined upon them, the neglect of which was punishable by severe penalties.

It was enacted (sect. 5th) "that the Fellows of said Society may, from time to time, elect such persons to be Fellows thereof as they shall judge proper; and that they, the Fellows of said Society, shall have power to suspend, expel, or disfranchise any Fellows of said Society."

It was also enacted (sect. 6th) "that the number of said Society who are inhabitants of this Commonwealth shall not at any one time be more than seventy (70), nor less than ten (10). And then, as if to imbue the Society with a congenital hatred of quackery, there occurs in italics this remarkable preamble to the seventh section of said Act. "Whereas it is clearly of importance that a just discrimination should be made between such as are duly educated and properly qualified for the duties of their profession, and those who may ignorantly and wickedly administer medicine, whereby the health and lives of many valuable individuals may be endangered, or, perhaps, lost to the community;—Be it, therefore, enacted (sect. 7th) that the President and Fellows of said Society, or such other of their Officers or Fellows as they shall appoint, shall have full power and authority

to examine all candidates for the practice of Physic and Surgery (who shall offer themselves for examination) respecting their skill in their profession; and if, upon such examination, the said candidates shall be found skilled in their profession, and fitted for practice of it, they shall receive the approbation of the Society, in letters testimonial of such examination, under the seal of the said Society, signed by the President, or such other person or persons as shall be appointed for that purpose." It was also enacted (sect. 8) "that if the President, or such other person or persons, so elected or appointed for the purpose of examining candidates as aforesaid, shall obstinately refuse to examine any candidate so offering himself for examination as aforesaid, each and every such person so elected and appointed as aforesaid, shall be subject to a fine of one hundred pounds to be recovered by the said candidate."

In an Act passed Feb. 10, 1789 (Special Acts of 1788, chap. 49), it was enacted "that it shall be the duty of the said Massachusetts Medical Society, in order more effectually to answer the designs of their institution, from time to time to describe and point out such a medical instruction, or education, as they shall judge requisite for candidates for the practice of Physic and Surgery, previous to their examination before them, or their officers appointed for said purpose, respecting their skill in their profession, and shall cause the same to be published in three newspapers in three different counties within this Commonwealth."

In an Act passed March 8, 1803 (Special Acts of 1802-3, chap. 123), two special elections were provided for; one for the election, before the next annual meeting, of "such and so many suitable persons, being physicians or surgeons resident within this commonwealth, as they shall see fit," into that corporation and to be Fellows thereof; and another at the annual meeting, of "so many Councillors as the said Society shall, from time to time, judge necessary and expedient;" and, also, that at their first meeting afterwards the Councillors shall appoint "five Examiners, or Censors, for examination of all the persons," &c. This is the first enactment directing the appointment of Censors; their election has since been given to the District Societies, but their powers and liabilities have remained essentially the same. It was also enacted (sect. 3, Acts of 1802-3) "that the said Councillors, at any of the three stated meetings of the same, and only at these meetings, and after three months nomination of every candidate, and not otherwise, by a major vote of those present, may elect any suitable person or persons to be a Fellow or Fellows of said Society;

and all persons, if not practising physicians or surgeons, or not resident within this Commonwealth, who shall be so elected, may be deemed honorary members." It was further enacted (sect. 4, Acts of 1802), "that every candidate who, upon examination, shall be approved by a majority of said Examiners or Censors, shall be entitled to letters testimonial of their approbation and of their license to such candidate to become a practitioner of medicine or surgery under the hands of the Examiners consenting thereto; and to such letters testimonial the seal of the said Corporation shall be affixed by the president or secretary, if any there shall be, with the signature of the same." "And every person who shall receive the said letters testimonial, and such also as hereafter may be admitted to the degree of Bachelor (Doctor, subsequently substituted for Bachelor, by the University) of Medicine at Harvard University, shall be entitled to the use of the libraries of the Society, under such restrictions as the Councillors may direct, and after three years of approved practice in medicine and surgery, and being of good moral character, and not otherwise, shall, upon application, and subscribing to the By-Laws, as aforesaid, be admitted a member of said Corporation, while a resident practitioner of medicine or surgery within this Commonwealth."

In 1817, and in 1818, general laws were passed compelling the Fellows of the Massachusetts Medical Society to examine candidates for license to practise Physic and Surgery, and outlawing all accounts for the practice of Physic and Surgery made by those who were not graduates of some Medical school or College, or licentiates of the Massachusetts Medical Society.

In March, 1831 (Acts of 1830, chap. 146) the Legislature so amended the Act of March 8, 1803, as to compel the Society to receive as members, upon application, all graduates of Harvard University, and its own licentiates, being of good moral character, and not otherwise, without three years approved practice.

In 1836, years before the existence of the American Medical Association, the Revised Statutes (Rev. Stat. chap. 22) specially repealed the general Acts of 1817 and 1818, and enacted provisions in relation to the examining of candidates, requiring all to be examined who, residing within the State, offered themselves to be approved as practising physicians and surgeons; and raised the fine, for unreasonably refusing to examine the same, to four hundred dollars.

In 1859, March 5th, the Legislature passed the following Act (Acts of 1859, chap. 82):—

"SECT. 1st. No person shall hereafter become a member of the Massachusetts Medical Society except upon examination by the Censors of said Society, and any person of good moral character found to possess the qualifications prescribed by the rules and regulations of said Society shall be admitted a Fellow of said Society."

"SECT. 2d. This Act shall take effect from and after its passage."

The General Statutes came in force May 31, 1860, and repealed the Revised Statutes (see General Statutes, chap. 182), but did not repeal any of the Special Acts passed in relation to the Massachusetts Medical Society or in addition to its Act of Incorporation. This Statute of 1859 is the last addition to the special laws in relation to the Massachusetts Medical Society, and repeals by implication all previous Laws which may conflict with it. All admissions to membership in the Society must be made in conformity to this Law. It is a Law of the State, and the Society must comply with its requisitions, until it is altered or repealed by the Legislature of the State.

In a word, then, the whole matter of admission is with the Censors, who must at all times conform to the Laws of the State, from which the Board derives its existence and its authority.

In accordance with the Law of the State of 1859, and votes of the Society passed previously, Dr. Alley (then Secretary of the Society), by direction of the "Government of the Massachusetts Medical Society," issued a circular, dated April 8th, 1861, to the Censors, reminding them that "all candidates *must* be examined by a Board of Censors."

The only method of expulsion of a member provided in the By-Laws of the Society is through the agency of a Board of Trial, which, under penalty for neglect or refusal, must hear and decide upon every case properly brought before it. No instance has been found of neglect of the Board to do its duty.

At the meeting of the Councillors, Oct. 5th, on motion of Prof. H. J. Bigelow, of Harvard University, seconded by Prof. C. Ellis, Dean of the Faculty, it was voted, *nem. con.*, to strike out a paragraph, relating to the admission of Medical Graduates of Harvard University, from Art. I. of the By-Laws of the Society—it having been originally founded on the old State Law, which was modified by the Revised Statutes in 1836, and repealed by an Act of 1859, and *therefore invalid and obsolescent* from that time, though left inadvertently upon the books.