

&c., &c." Now the quasi professional account of the defendant, is the strongest possible proof of his infraction of the law, and of his having incurred its penalties. The account is unsustainable, because the acts upon which it is based are illegal and indictable; and ought, therefore, not to be permitted to stand in the way of the prosecutor's more just claim for compensation. The matter has been taken, however, *en délibéré* by the Court, and the profession will anxiously await the judgment.

BROME COUNTY CIRCUIT COURT.

March Term 1860.

GEO. C. PETERS, Plaintiff, vs. ORLANDO P. SWEET, Defendant.

Mr. S. W. Foster appeared for the Plaintiff, and Mr. James O'Halloran for the Defendant.

This was an action brought on a cabinetmaker's account in favour of the plaintiff. The defendant alleged in his plea that plaintiff's demand hath been compensated, previous to the institution of plaintiff's action, by a large sum of money due to the said defendant for the price and value of divers medicines, and for the services and advice of defendant, furnished and bestowed by him upon plaintiff and his family, as per account hereunto annexed, and without waver denied all plaintiff alleged.

The plaintiff, in answering to this plea, alleged that defendant's plea was untrue and insufficient to prevent the said plaintiff from obtaining the conclusions of his action; and for special answer to the defendant's plea said, that defendant cannot or could not recover from the said plaintiff a set off in compensation against his said demand the amount of money claimed in and by his (defendant's) plea, said claim of defendant, and for a pretended account filed with said plea in this cause, purporting to be for medical services done and performed, and for the value and price of divers medicines furnished by defendant to plaintiff. That said defendant was not, at the dates set forth in defendant's said account, nor at any time previous to or since the institution of plaintiff's action, a duly licensed doctor or physician, nor licensed to practice physic, surgery, or midwifery in Lower Canada, nor can he have or maintain a claim for such pretended professional services, attendance, or medicine. That said defendant never performed nor could he legally perform any such services without the said license; and even if said services were performed by said defendant they were so performed contrary to law and the statute in that case made and provided, and said defendant cannot and could not claim or recover any price, salary, or sum of money whatever for such illegal and unprofessional pretended services, attendance, or medicines.

Plaintiff, by evidence, proved his demand, whereupon defendant commenced to introduce evidence to prove his account, but was met by counsel for plaintiff with an objection, Mr. Foster invoking plaintiff's answer to defendant's plea as a bar to the introduction of any evidence for pretended professional services until he should first establish his right to practice medicine in Lower Canada, and cited several authorities affirming his position, tending to show and showing that a physician could not collect fees for services rendered. That plaintiff sought a decision in this cause for the purpose of establishing the fact whether defendant and men of his stamp are at liberty to contravene the statute medical law of Canada with impunity.

Mr. O'Halloran, for defendant, answered that this cause disclosed a strong desire on the part of plaintiff to avoid paying his doctor's bill, the gentleman he had employed, and from whom (he was able to prove) plaintiff acknowledged to have received efficient relief. That he (Mr. O.) was taken by surprise with the objection, and to see so great an effort made by his learned friend, Mr. F.; and more so, because he saw no occasion for it. The plaintiff has proved his demand and made out his case, and the simple question was, is not defendant entitled to prove his professional account, rendered honestly and