

But where a conviction for an offence over which the magistrate had jurisdiction is bad on its face, the court is to look at the evidence to determine whether an offence has been committed, and, if so, it should amend the conviction.

A conviction under the Ontario Medical Act, R.S.O., c. 148, s. 45, for practising medicine for hire;

Held, bad for uncertainty in not specifying the particular act or acts which constituted the practising.

Re Donnelly, 20 C.P. 165; *Regina v. Spain*, 18 O.R. 385; and *Regina v. Somers*, *ante*, followed.

And the court refused to amend, and quashed the conviction, where the practising consisted in telling a man which of several patent medicines sold by the defendant was suitable to the complaint which the man indicated, and selling him some of it.

Costs against the informant refused.

Regina v. Somers, *ante*, followed.

Aylesworth, Q.C., for the defendant.

H. S. Osler for the informant.

Chancery Division.

BOYD, C.]

[Oct. 21.

IN RE ONTARIO EXPRESS AND TRANSPORTATION COMPANY.

Company—Increase of capital stock—Contributories—Winding up—Surrender of shares—54-55 Vict., c. 110 (D.).

The statute forming the charter of the above company permitted it to begin operations when the whole capital stock was subscribed, and twenty per cent. paid thereon. It further permitted the capital stock to be increased on certain conditions, one of which was that it should not be lawful so to do until the original capital stock had been paid in full. A by-law was passed by which it was declared that the holders of the original stock should be allowed a discount of eighty per cent. thereon, which was confirmed by the shareholders. This, with the twenty per cent. paid on the original stock, was treated as a payment in full, and thereupon a by-law was passed to increase the capital stock. By a subsequent statute, 54-55 Vict., c. 110 (D.), it was recited that whereas the company was duly organized, the whole of the capital stock thereof being subscribed, and twenty per cent. paid thereon, and whereas the said company carried on its business for several years before it ceased its operations, and whereas the said company has been "reorganized and desires to continue to carry on business" on the terms and conditions in the said Act specified, and it was declared that the company, "as now reorganized," was capable of doing business.

In the winding-up proceedings of the company the master had placed certain subscribers to the new stock issued under the above by-law upon the list of contributories, who now appealed from his decision.