

Chancellor Boyd observed that the Medical Council does not seem to be invested with such extensive power of disciplining its members as is given to the Law Society by the Legislature. To the Benchers is entrusted power to enquire into the conduct of lawyers who are charged with professional misconduct, or with conduct unbecoming to the Law Society. So to a more limited extent in medicine, if anyone admitted to practise on certain explicit conditions, and is given an undertaking to observe them, that is, a promise not to advertise in any offensive way, by a breach of that engagement, if willfully and deliberately made, such action might well be regarded as disgraceful conduct in a professional respect. As to the costs, the Chancellor did not consider that the proceeding had been frivolous or vexatious. The conduct of the appellant had been such as to provoke complaint and invite investigation. He has offended against the provisions of the Ontario code, which declares it to be derogatory to the dignity and prestige of the profession to resort to the practice of secrecy on the one hand and publicity on the other, which, though not in force when he registered, yet declares the professional standard, which he has disregarded to set up a trade standard for himself, so that, while in the result he might be right legally, he is wrong professionally.

Having regard to this and other considerations, the Chancellor did not think that the Council, who are discharging a quasi-public service, should be called upon to pay the costs of the investigation at Cobourg or this appeal in Toronto.

Mr. Justice Maybee, in his summary, made the following comments: Complaint was made throughout the trial that Dr. Crichton refused to make the formula of his medicine public. This was said to be against proper practice, but he was not charged with that, and was not convicted of it. The charge was for advertising. He was convicted of fraud, or something he was not charged with. The evidence is not sufficient to convict of charge, even had he been so charged, and the trial was not conducted with those safeguards that should be carefully observed upon a case of fraud with so serious consequences as the present one.