

It is thus made express and plain, by the positive averments of this complaint, that, *as a matter of fact*, not a dollar of this money was paid either to Crawford, or to any one else of the defendants, for legal services in excess of any contract.

On the contrary, the substance and effect of the averments, taken as a whole, is that everything was a "pretense" and a sham in regard to there being any contract, there being any services, *and there being any payment made on account of services rendered*; and, on the contrary, that the real transaction, from its beginning to its end, was, in fact and in law, a conspiracy to divide between the conspirators the Seminole money, ending in an embezzlement. Instead of these averments, amounting to a sufficient declaration under this penal statute, to wit, that it was in fact and in law a payment for services *in excess of the amount allowed by the Secretary and Commissioner*, it is an averment of a conspiracy to *embezzle* this money and to divide the fund embezzled between the co-conspirators.

Instead, therefore, of these averments bringing the case within the statute, they carefully, fully, and literally exclude it from the scope and purview of the statute, and simply aver what amounts to an embezzlement, wrought out through a set of "false pretenses" executed pursuant to a conspiracy.

What has just been stated is so obvious and express, as written in the text of these complaints, as to render, as really seems to us, any illustration or enforcement of the proposition stated, unnecessary.

#### SPECIFIC DEFECTS OF COMPLAINTS.

In the analysis which we have now made of the entire scope of the two complaints, and in stating the conclusion which we have just stated, from such analyses, that the complaints fail to charge any offense made penal by said