

EDITORIAL

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THE PRACTICE OF MEDICINE HELD TO BE A PROFESSION AND NOT A TRADE.

It will be recalled that some months ago the American Medical Association, the District of Columbia Medical Society and others were indicted in the Federal Court of the District of Columbia. The indictment charged a conspiracy to restrain trade in the District of Columbia in violation of Section 3 of the Sherman Anti-Trust Act. It was charged that the defendants were conspiring to prevent the Group Health Association, Inc. from arranging for the provision of medical care and hospitalization to its members, largely government employees, on a "risk-sharing prepayment basis." The defendants filed demurrers making basic objections to the indictment, the most important of which were that the acts complained of were not restraints of trade and that the practice of Medicine was not a trade within the meaning of the law.

On July 26, 1936, Justice James M. Proctor of the United States District Court for the District of Columbia, sustained the demurrers to the indictment in an opinion which deals with these two questions exhaustively and which deserves careful study by all who are interested in preserving the accepted status of the professions. Justice Proctor held that the practice of Medicine is a profession and that the learned professions are clearly excepted from the provisions of the law. Justice Proctor also held that "if the livelihood of group practitioners has been injured by the wrongful acts of the defendants, they too have redress in a civil court."

The Anti-Trust Division of the Department of Justice promptly gave notice that a reversal of the decision will be sought and later a notice of appeal to the United States Court of Appeals was filed in which seven reasons were stated why the decision is erroneous. It is also indicated that a new indictment may be sought with the object of taking the case directly to the U. S. Supreme Court. A final decision may not be rendered for some time.

This case has taken on unusual importance because of the basic questions involved with respect to the adequacy of medical care and to its cost and the press comment on Justice Proctor's opinion was wide spread and outspoken. There was general agreement with the clear distinction between a profession and a trade in the opinion, and that the indictment was not sound. There was sharp criticism of the Government's attitude and procedure. It was generally recognized, however that even though the opinion of Justice Proctor is upheld, this will not settle the broad underlying problem of improving and extending medical services for the people. One paper referred to the present situation as being unsatisfactory and continued, "But this condition will be improved. It will be a slow and long process, toward the ideal medical provisions for the entire nation. One thing, however, is certain. It will only be reached with the coöperation of the healing professions. Without them, any such effort is foredoomed to failure."

It would seem to be the part of wisdom as well as a duty for the health professions to coöperate actively and earnestly in working out more adequate and more reasonable provisions for medical services, at the same time resisting any effort to impose on them any form of control which will interfere with the effective discharge of their age-old duties and responsibilities to the people.—E. F. K.