

what goes on there, the rest of the profession is having an opportunity to learn what organized medicine means by merger. It is readily apparent that the merger consummated in California has but one purpose—the total destruction of the osteopathic profession and the physicians who make up the profession. The fact of the matter is that organized medicine never promised to do anything else. The wishful thinking was done and the exorbitant claims of benefits to result from “recognition” were made by deluded leaders of osteopathy—not by medicine—in California.

It is unfortunate that a college, over 2,000 individual osteopathic physicians, and a state licensing act had to be sacrificed to make it clear that D.O.’s who agree to merger are partners in their own destruction. Osteopathic physicians in California have actually “recognized” themselves out of existence. Despite the obvious lesson, there are still those so blinded by the greed for recognition that they, too, are walking the path toward destruction. A small group in Washington and another in Pennsylvania would sell their futures for a mess of pottage.

It is ironic that in these two instances the leaders are general practitioners and some of the followers are specialists who have been threatened with a boycott if they do not go along. Aside from the moral injustice of such pressure, the stupidity of the maneuvers is appalling. These osteopathic general practitioners have failed to read the handwriting on the wall. Certainly no thinking man could believe that organized medicine would spend thousands of dollars in the various states for the future benefit of those who have been members of the osteopathic profession.

The osteopathic general practitioner is the attraction, and he has inadvertently become the Pied Piper leading the osteopathic profession toward elimination.

The need to show these general practitioners what is being done *to* them—rather than *for* them—in merger proposals is paramount. On this point, and perhaps this point alone, will depend many of the happenings in the year to come. This next year, 1963, should be the beginning of a new era for osteopathic medicine, an era in which the headlong pursuit of recognition for recognition’s sake will be abandoned and the profession will turn its attention to development through service.

As Mrs. Franklin Delano Roosevelt was laid to rest in Hyde Park last month, it was said that “she was a follower after the truth, and the truth which she found made her free.” Physicians should be followers after the truth, and if they are, their goal will never be merely recognition. It will be service. As we enter the new year, may we together seek truth through service, for the truth will also make us free.

Editorials

THE JOURNAL OF THE AMERICAN OSTEOPATHIC ASSOCIATION

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“The judgment is reversed”

With these four words, the legality of converting the College of Osteopathic Physicians and Surgeons in Los Angeles was critically questioned by California’s District Court of Appeals.

It will be recalled that the “College Trust Suit” was initiated by the chairman and two members of the C.O.P.S. Board of Trustees who charged that the defendants violated a charitable trust in converting the college to a medical school. When the suit was first presented before a lower court, the complaints were dismissed without leave to amend. The three district judges, after hearing oral arguments from both sides, unanimously agreed that the plaintiffs had a cause of action for alleged violation of a charitable trust. Although the total effect of the appellate court’s decision cannot be fully determined until subsequent litigation transpires, the ruling of the three appellate judges is significant. It will be published in the March issue of *THE D.O.*, and it should be read by every osteopathic physician.

In this dramatic reversal, the California District Court of Appeal ruled that three trustees of the California College of Medicine had clear cause to sue the other trustees for breach of a charitable trust in converting the school from an osteopathic college. The judgment read, in part:

It is the respondents' contention that only the attorney general may prosecute an action to enforce a charitable trust. We do not agree. The true rule is that the attorney general or any person having a special interest in the enforcement of the trust may sue but that the attorney general must be made a party to the action. . . . The plaintiffs as trustees of COPS have a special interest in preventing its assets from being diverted to other than that specified in its charter. COPS has no members, its trustees are self-perpetuating and as fiduciaries are charged with carrying out the charitable purposes set forth in its articles of incorporation. . . . As to ordinary matters of administration the decision of the majority of the trustees is final but neither a majority of the Board nor the entire Board can, by vote, change the charitable purposes declared by the articles in incorporation. . . . Each trustee has a duty to see that the funds of the corporation are not diverted to purposes other than those set forth in its articles of incorporation and in the event the attorney general fails to act, any trustee may do so.

In another context, the judgment stated, "it is the duty of the Board of Trustees to carry out the charitable purposes with which the corporation's assets are impressed." Continuing further in answering the lower court's finding for a dismissal, the appellate court stated:

A threatened change in the charitable purposes set forth in the COPS' articles of incorporation as interpreted by its trustees for nearly 50 years is thus clearly alleged and a cause of action for equitable relief stated. *We are not impressed with the argument that even though COPS becomes an accredited College of Allopathic Medicine it may still teach osteopathy. The primary charitable purpose of COPS, if the allegations of the complaint are true, is the teaching of osteopathy, not the teaching of that art of healing as a subject secondary and subject to the primary purpose of teaching allopathic medicine.* Further the complaint alleges

that the majority of the Board intend to abandon the teaching of osteopathy. The fact that COPS may and does teach subjects other than osteopathy does not alter the fact that its primary purposes must be the teaching of the art of healing through the theory of osteopathy. [Italics supplied.]

The court further ruled that the California Osteopathic Association is a necessary party to the suit and held that the C.O.A. could now be enjoined as a defendant.

It is too early to claim a victory. Nor must we dote over one, if achieved. The important fact is that for the first time a high court has seriously questioned the legality of converting the primary purpose of an osteopathic college to that of an allopathic medical school. It is a tragedy that the legality and morality of abandoning the education of osteopathic physicians could not have been considered before rather than after the fact.

Regardless of the outcome of the "College Trust Suit," the position of the American Osteopathic Association and its divisional societies now has strong legal support. Osteopathic medicine belongs to the people and is not the sole possession of the profession or a group within it. It cannot be bartered and sold like wares in the market place. People of the profession and for the profession, who have invested of themselves, their monies, and their lives in the development of this school of medicine, will not be compromised by those who care little for the public trust.

"The judgment is reversed" may well become the four most significant words to emerge from the State of California.