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EDITORIAL NOTES.

THE MEDICAL PRACTICE ACT.

Considerable interest seems to have been aroused by a decision recently handed down in the District Court of Appeal, Second District, at Los Angeles. Dr. James T. Arwine applied to the Board of Examiners for a license to practice in this State. There seems to have been some delay in the investigation of his credentials, or in acting upon them; at any rate he was permitted to take the examination at Los Angeles July 19-21. The applicant held a diploma from the University of the South, Tennessee, which the board states was issued after but three years of medical study, no credit for one year being due the applicant as under the rules of the Association of American Medical Colleges. Referring to this point, the learned justices state, in their opinion:

> "We are of the opinion, however, that the effect of this particular provision of the act is to delegate to the Association of American Medical Colleges the function of determining from year to year the conditions upon which physicians may be admitted to practice in this State; that this is a legislative function vitally affecting the rights of physicians to practice here and the rights of the people to avail themselves of the services of competent practitioners; and that it was not within the constitutional powers of the legislature to delegate such functions to the board."

The court ordered the board to issue the license as prayed. The board, however, asked for a rehearing of the case, introducing a portion of the decision of the Supreme Court in the case *ex parte* Gerino. The District Court of Appeal refused the request for rehearing and we understand that the board is to appeal the case to the Supreme Court.

THE GERINO DECISION.

In view of the close resemblance of this decision to that handed down by the Supreme Court, already referred to as the case *ex parte* Gerino, it would seem to be not amiss to quote the salient portion of that now celebrated decision.

> "It being proper for the legislature to demand some standard of efficiency, as we have seen, we think it equally within its powers to declare that it shall be the same as that required by an association composed of colleges devoted to the work of preparing persons for the profession. Evidently the standard of proficiency in scholarship as a preparation, and the particular studies necessary to secure a fair preparation, must change as the discoveries in natural science open new fields of investigation and suggest or reveal new curative agencies. The legislature can not successfully prescribe in advance a standard to meet new and changing conditions. The method adopted appears to be sufficiently definite to enable all colleges to reach the required standard when in good faith they desire to do so. The law is as fixed, definite, and certain in this respect as the nature of the subject and the object to be attained will permit, and we do not think it should be held void because it adopts the standard fixed from time to time by those who, it will be presumed, are the most eminent in the profession which it attempts to regulate, and who should be the most interested in maintaining the highest degree of professional proficiency, skill, and training."

It is seldom safe for a mere lay outsider to venture an opinion upon the law, when lawyers and jurists themselves can not agree upon its various meanings and intents. Nevertheless, we must confess to a feeling of extreme bewilderment! The Suprme Court of the State says that the legislature has the constitutional right to delegate its powers of fixing certain standards or requirements; the District Court of Appeal says that the legislature has not this right! This would seem to be a severe rebuke to the Supreme Court for so hastily handing down its opinion on this point, a few years ago. But it leaves us entirely in doubt as to which set of eminent jurists is right and which set is wrong! And now the matter will go to the Supreme Court again, and again it will have an opportunity of thinking the matter over. Will it change its mind? Even the Supreme Court of the United States has, if memory serve, reversed itself in bygone years. But whatever may be the ultimate outcome of this particular question, the balance of the law remains; if it be found that this portion of the law is not in accord with the powers of the legislature, then it will be "up to" the legislature to change that portion of the law and to