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Further Regulation of the Practice of Dentistry

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the judiciary is as nearly disinterested as any group could be; (c) the legislature is hampered by an inferior grade of knowledge; (d) the legislature often becomes the catspaw of intriguing lawyers; (e) the legislature necessarily can amend rules of procedure only spasmodically and tardily; and (f) the legislature invariably amends the rules by patching old rules, so that inconsistency and incompleteness are often evident.

Therefore, it would seem that the recent legislation is a step in the right direction which will ultimately result in cleaning up many anomalous situations which have developed under the series of acts and amendments enacted from time to time by the Assembly.

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FURTHER REGULATION OF THE PRACTICE OF DENTISTRY

One of the crying evils of the dentistry profession, made such by those with low professional ethics and with little regard for the good name of dentistry as a whole, has been the vicious and over-emphatic use of advertising media to lure the unwary into dental chairs. The most severe criticism of such methods has come from members of the profession itself—from those concerned with the maintenance of professional standards that would insure both competency of the practitioner and protection for the more susceptible members of the public. The end of such deleterious practices has been assured by the passage of the Act of April 30, 1937, No. 136.

The act is very comprehensive in its listing of forbidden media of advertising, going beyond those practices heretofore considered as false, misleading or deceptive advertising. The act forbids the employment or use of solicitors or free public press agents; advertising by means of signs, posters, handbills, circulars, slides, motion pictures, radio, newspapers, magazines or other publications or advertising media—(1) professional superiority, (2) the performance of professional services in a superior manner, (3) the character or durability of his work, (4) to guarantee any dental service, (5) to perform any dental operation painlessly, (6) prices for professional services, (7) free dental work, (8) free examinations, or (9) by display of a tooth, teeth, bridge work, or any portion of the human head, or (10) by means of large, glaring or conspicuous light or other signs: Provided, however, That the foregoing shall not prevent the use of signs containing the name of any licensee and the word dentist, or any abbreviation thereof. The penalty provided for violations of the act is suspension or revocation of the license to practice.

It may well be imagined that those whose practice will be affected most by these provisions will assert the unconstitutionality of the act. The answer will be

found, however, in *Semler v. Oregon State Board of Dental Examiners*, 294 U. S. 608. There an act of the State of Oregon almost identical in its terms was held by the United States Supreme Court not to deny the due process guaranteed under the Fourteenth Amendment nor to impair the obligation of any advertising contracts already made when the act became effective. The dental profession is bound to enjoy a larger measure of public esteem as a result of this act.

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DEMURRER TO EVIDENCE IN CRIMINAL PROSECUTIONS

At the last session of the General Assembly, Act No. 357 was passed and approved on June 5, 1937. This act materially changes some of the law relating to criminal procedure. The act provides that when a defendant demurs to the evidence submitted by the Commonwealth at the close of the Commonwealth's case, the demurrer shall be deemed an admission of the facts that the evidence tends to prove or the inferences reasonably deducible therefrom *only* for the purpose of deciding upon such demurrer, and if the court decides against the defendant on the demurrer, the decision shall be interlocutory only and the case shall proceed as if the demurrer had not been made.[1]

This changes the preexisting common law and brings the criminal procedure into conformity with the civil practice under the Practice Act of 1915. Under the Practice Act when a defendant files what is known as a statutory demurrer to the plaintiff's statement of claim, which is overruled, he is given fifteen days within which to file a supplemental affidavit of defense to the averments of fact.[2] The result in both cases is now that the defendant loses nothing by his demurrer in the event it is overruled.

The common law rule in the case of the demurrer to the evidence in a criminal case was that "where the defendant demurs to the evidence it is proper for the court to dismiss the jury and render judgment."[3] The result of this rule was that frequently the demurrer was overruled and the court proceeded to render judgment, thereby, in a sense, depriving the defendant of a jury trial, because of the error of his counsel in making the demurrer. It was said, "in criminal cases a demurrer to the evidence of the Commonwealth admits all the facts which the evidence tends to prove, and all inferences reasonably deducible therefrom."[4] This same result followed when a defendant demurred to the evidence in a civil suit. He was deemed to admit every inference and conclusion which the

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[1]Act No. 357, approved June 5, 1937.
[2]Act of May 14, 1915, P. L. 483, Section 20.
[3]Commonwealth v. Parr, 5 W. & S. 345 (1843).
[4]Commonwealth v. Parr, supra.