

power or no degree-conferring institution should be incorporated without the approval of the Council of Education."

If such a condition could be made National there would be no further cause for criticism by foreign nations, who now claim that the degree-conferring power in America is without proper supervision.

With the University lies the power of appointing our boards of medical and dental examiners, from candidates nominated by the state societies. The dental board is divided into four classes, the term of one class expiring on July 31 in each year. Prior to the second Tuesday in June of each year, the state society is empowered to nominate from its membership twice as many candidates for filling vacancies to occur on the board as there shall be such vacancies, and from these nominees the regents appoint.

Thus it is sought not only to remove the constitution of our examining board from state politics, but to take it out of professional politics. The state society, the purpose of whose incorporation is to assemble together men to whom the interest of the profession, its advancement and honor are dear, and membership in which is open to all who are of good standing in the profession and chosen from their districts as representative men, has power to say to the regents: "We submit to you the following names of men who, in the opinion of the dental profession throughout the state, are fit and worthy to represent it. But we can not appoint, we can not by intrigue constitute the board; that must be done by the regents, and with them rests the responsibility for ill-advised selection, limited only by our responsibility in submitting poor material for their choice." Thus there is a double responsibility created; we are responsible for our nominees, and the regents for their appointments, and thus it is that we have removed, so far as human ingenuity could do so, the constitution of our board from the hands of the politicians; and, if I have spoken of our system of licensing dentists as good, I have still spoken less strongly than Dr. Allen, secretary of the advisory committee of the National Association of Dental Faculties, who, writing under date of Nov. 15, 1899, for "A Comprehensive Report from the New York Examiners," was kind enough to say of the body to which he belonged, "the entire committee regard the New York Dental Law as the best in the country."

Before the board thus constituted come the candidates for license, after satisfying the board of regents that they have been graduated from the professional schools after receiving the proper preliminary education. But the examiners do not know the candidates who appear before them or the schools from which they come. To guard against any possible favoritism candidates are examined by number, and it has even happened that men have appeared before the board who have slipped by the outposts and have passed the professional examination without having satisfied the preliminary requirements, with the result that their success in passing the state board has yet failed to license them to practice within the State of New York by reason of their failure to comply with the preliminary requirements.

The success of our system, therefore, depends upon the existence in the State of New York of our University, which, while controlling all educating bodies, does not itself possess a teaching faculty; thereby have we been able to keep our board out of politics and have been able to create a double responsibility for its appointments.

That we have excluded from the profession all incompetents would be claiming to be something more than human; what we can safely maintain, however, is that we have guarded the entrance to the profession, not only with sentinels, but with watchmen over the sentinels.

REVENUE FOR CONDUCTING THE WORK OF STATE BOARDS OF DENTAL EXAMINERS.*

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In this "Symposium on State Boards of Dental Examiners in Their Relations to the Profession and the Colleges," I am asked to deal simply with the subdivision: How Shall the Revenue for Conducting the Work of the Boards of Examiners Be Obtained? 1. By taxation of the people? 2. By fees from the candidates? 3. By taxation of the profession?

Naturally our first inquiry would be as to the causes bringing about dental legislation, and the purpose of such laws.

The majority of the dental world labor under the idea that these dental laws were passed to protect the dentist from the dentist; that is, to bar out the dental parlor man and admit to practice only those who will live up to the code of ethics, but notwithstanding the fact that more or less selfishness on the part of the dental profession prompted their advocacy of such enactments, the laws are for the safety and welfare of the people. This being the case, you say, let the people pay.

No doubt there are many good reasons why the people should pay; for example, were the people taxed, then many worthy, but financially embarrassed young candidates, who have expended at college their last hard-earned dollar, would not be required to wait until they could earn enough to satisfy the demands of the state boards, although I think all candidates would be better off if they would serve as assistants with some successful practitioner. There they would gain experience, not only in the manipulation necessary to the care of the dental organs, but learn, what is vastly of more importance to them at the outset, how to deal with people and to meet the many petty but important details of daily routine in a successful professional office. Were there no other objection to the people being taxed and the state paying these expenses, the fact confronts us that in most states it would be impossible to obtain adequate legislation for such expenditure, from the fact that the average legislator, on account of his peculiar ideas concerning false economy, in appropriating state funds, would never vote for such expenditure, when he was confronted with the fact that in every other walk of life he who dances pays the fiddler. It would be waste of time to deal further with Subdivision 1.

Let us leave Subdivision 2, "fees from the candidate," while we quickly dispose of Subdivision 3, "taxation of the profession."

In our professional ranks there are many generous, whole-souled, self-sacrificing men, but when we talk of securing the revenue by taxing the profession it means the whole profession, and judging from my own experience with the average dentist it would be a greater task to get the dental profession to allow itself to be taxed, so that other dentists might enter into competition with them, than it would be to get the people. the

* Read in the Section on Stomatology, at the Fifty-second Annual Meeting of the American Medical Association, held at St. Paul, Minn., June 4-7, 1901.

free and enlightened voter, to submit to taxation in order that another voter might carry on his business.

This brings us to the only other source of revenue, 2, "the candidate."

When I was requested to prepare this paper there came upon me a sudden elation, for it seemed that for once I knew where to go for the desired information.

In a chat with a lawyer along the lines of dental legislation, he gave me the impression that the state should pay the costs of examination, but alas, when I hastened to him, note-book in hand, I found that I had misunderstood his remarks. Our talk had been of a certain retroactive clause in a proposed dental bill, **and that which he had intended to say was, that if this bill should pass it would be a hardship to compel certain ones to pay a second fee, and in justice the state in this case should be responsible.**

Continuing the conversation after I had stated the question I was to deal with, the attorney assured me that so far as he was informed of the various license-granting powers, there could be but one answer to the question. Later investigation has convinced me of the soundness of his opinion.

In the work of various other boards, for example, health, forestry, and fisheries, the expenses justly come from the public funds, as the benefit is not for individuals, but for the people; but in the case of a license to carry on some trade or profession, whereby an individual is allowed certain privileges, the individual should pay the costs, notwithstanding the fact that the laws governing such cases are enacted for public protection.

Let us glance for a moment along the various walks in life where licenses are required before one can enter the ranks, and see by actual reference to a few state laws, from what source the revenue is obtained: Georgia, state board of embalmers, license \$5, from the candidate; Ohio, physicians, dentists and druggists, fee \$25, from the candidate; South Carolina, homeopathic board, fee \$5, from the candidate; New Hampshire, plumbers, fee \$1. for examination, 50 cents every year, from the candidate; Virginia, medicine and surgery, fee \$10, from the candidate; Nebraska, barbers, examination \$1, and annually \$1, from the candidate; Michigan, barbers, examination \$5, and annually 50 cents, from the candidate; barbers in business at passage of law, \$1, and annually 50 cents, from the candidate; Tennessee, osteopathy, fee from candidate for recording diploma from one named college, \$1, and all not so recorded, fine \$100.

This list could be continued indefinitely, and would still have the refrain, "from the candidate."

"Where the successful prosecution of a calling requires a certain amount of technical knowledge and professional skill, and the lack of them in the practitioner will result in material damage to the one who employs him, it is a legitimate exercise of police power to prohibit any one from engaging in the calling who has not previously been examined by the lawfully constituted authority and received a certificate in testimony of his qualification to practice the profession." "It is the common custom in all the towns and cities of the United States to require the payment of a certain sum of money as a license fee, for the privilege of prosecuting one's profession or calling. The license is required indiscriminately of all kinds of occupations, whatever may be their character, whether harmful or innocent, whether the license is required for the protection of the public or not. . . . It is either a license, strictly so-called, imposed in the exercise of the ordinary police power of the state, or it is a tax laid in the exercise of the power of

taxation. In many cases it becomes exceedingly important to determine under which power the particular license is imposed. For example, if the license is a tax, the bill must originate in the House of Representatives, according to the almost universal requirements of constitutional law. But if it is a police regulation, the bill providing for it is constitutional in whichever house it was introduced." "It is one of the 'ways and means' of defraying current expenses."¹ A license tax has been held to be reasonable when imposed upon vendors of milk, hucksters, pedlars, vendors of cigarettes, upon attorneys, physicians, bankers, hacks and drays and other vehicles. So likewise may such tax be exacted of keepers of places of amusement, of dealers in second-hand articles, pawnshops, insurance brokers, auctioneers. In short, the state has the power to impose a license fee as a tax or a police license upon every kind of business.

"In the regulation of all such occupations, it is constitutional to require those who apply for a license to pay a reasonable sum to defray the expenses of issuing the license, and what is a reasonable sum must be determined by the facts in the case."

"When a municipal corporation is given the power to license useful trades or occupations, it can not use the license as a tax to raise revenue, nor is it authorized to entirely prohibit the exercise of the trade or occupation by any excessive license fee."² Mr. Justice Manning says:

"A proper license tax is not a tax at all within the meaning of the Constitution or even within the ordinary signification of the word, tax. . . . The imposition of a license tax is in the nature of the sale of a benefit, or privilege to the party who would not otherwise be entitled to the same. The imposition of an ordinary tax is in the nature of the requisition of a contribution from that which the party taxed already rightfully possesses."

I have examined all state laws concerning dentistry, numerous other laws and legal authorities, and so far I have not succeeded in finding a single case where the costs did not fall upon the applicant, therefore in answer to the query: How shall the revenue for conducting the work of the state boards be obtained? I reply: From the candidate.

REVENUE FOR CONDUCTING THE WORK OF BOARDS OF DENTAL EXAMINERS.*

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BY TAXATION OF THE PEOPLE.

Although one of the main objects of examining persons wishing to commence the practice is to secure protection for the people from inferior dental service, and it would seem for such immunity the people should be taxed as they are for any other protection which the law affords. This is doubtless the correct principle, as the members of the state boards are state officers, it would seem most rational that they should be paid as other state officers.

But there would be great difficulty in influencing legislation, as any proposed enactment relating to dental surgery or any branch of medicine, which carried with it a draft upon the treasury of a state, would excite the

1. Tiedeman's Police Regulation of Skilled Trades and Professions.

2. American and English Encyclopedia of Law.

* Read in the Section on Stomatology, at the Fifty-second Annual Meeting of the American Medical Association, held at St. Paul, Minn., June 4-7, 1901.