

# SEARCH AND SEIZE

An expose concerning the remarkably ruthless exercise of extraordinary powers conferred by statute on a private professional organization, which has enabled members of the Ontario Dental Association to perpetuate a monopoly over the provision of all types of dental services to the public.

## FOURTH IN A SERIES OF OPEN LETTERS TO THE PEOPLE OF ONTARIO CONCERNING AN ONEROUS AND RESTRICTIVE LAW THAT DENIES YOU FREEDOM OF CHOICE WITH RESPECT TO DENTURE SERVICES.

Paid agents acting on the instructions of the Royal College of Dental Surgeons are conducting raids against denture clinics throughout the Province. To date, nine clinics operated by members of the Denturist Society have been forcibly entered by these dental hirelings who have confiscated records, supplies and materials in attempts to facilitate prosecutions for alleged contraventions of the Ontario Dentistry Act.

Authority for such raids is found in Section 23, subsection 10 of the Ontario Dentistry Act.

"Upon information on oath by a duly authorized agent of the College that he has reasonable cause to believe that there is in a building or premises any dental equipment that is being, has been or is likely to be used contrary to this Act, or that any prosthetic denture, bridge, appliance or thing is being, has been or is likely to be made, produced, reproduced, fitted, constructed, furnished, supplied, altered or repaired, contrary to this Act, it is lawful for any justice of the peace, by warrant under his hand, to authorize and empower such agent or any other person named therein to enter and search the building or premises or any part thereof, or any closet, cupboard, box or any receptacle therein that might contain any such dental equipment, prosthetic denture, bridge, appliance or thing."

It must be readily admitted that the powers described above are extraordinary. Even more incredible, however, is the fact that such power has been conferred on a private professional organization who have established their own police force comprised of private detectives who are assigned one role and one role only — that of maintaining the vested economic interest of their dental employers.

Denturists throughout Ontario have experienced the full brunt of this power when being brought before the courts where they have been convicted and fined for challenging the propriety of the existing dental monopoly. More raids and prosecutions are anticipated in the very near future. Indeed, a persistent rumour has been circulating that the dental association is making a concerted effort to revise their act to provide for far higher fines than those currently levied against denturists for defying the dental Act.

Regardless of the continuing raids and prosecutions, however, denturists have prospered and there are several compelling reasons why they will continue to prosper in spite of adverse laws.

1. The determination of the denturists to gain for themselves a rightful place in a respected profession or calling within society.
2. The continuing and expanding public demand for the services which can be provided by denturists.
3. The conviction on the part of denturists and a large segment of the population that in spite of the admitted illegality of their actions, the activities of denturists are morally proper and constitute a forward step in providing adequate dental services to the people of Ontario.

This conviction of denturists is reflected in the fact that there are now more than sixty denture clinics established throughout Ontario to serve a pressing public need. These clinics are owned and operated exclusively by denturists who are members of the Denturist Society of Ontario.

### WHOSE INTERESTS ARE TO BE SERVED?

It is not enough, however, for denturists to insist that their services should be recognized under law. Nor is any answer provided by denturists insisting that the services of denturists should not be granted legislative recognition. Clearly there is something much more important at stake than merely the interests of dentists or denturists. The public interest must be held paramount and unless it can be demonstrated that the activities of denturists constitute a public health hazard in the limited areas in which they function, then it is immediately seen that the arguments raised by dentists against enabling legislation are specious.

It should be clearly stated, however, that denturists are prepared at any time to cooperate with members of the dental profession in efforts to provide more and better dental services to the public. Such co-operation will not be achieved however, by legislating denturists under the control of dentists. Experience has taught us that no reduction in costs for dental care occurs through the creation of dental auxiliaries or ancillary bodies, when such persons and the services they perform are controlled exclusively by the profession and developed mainly for the purpose of providing an additional financial arm to enhance the income of the professional practitioner.

### WHO SHOULD BE GRANTED CONTROL?

The dental profession insists that they alone should have responsibility for all types of dental care and that they alone should have the power to decide who may provide such dental treatment.

This concept of all-embracing control by private organizations is not endorsed by enlightened persons. Indeed, the Royal Commission Inquiry into Civil Rights, Report No. 1, Volume 3, Page 1163, points up the very obvious dangers which can and do occur as a consequence to such control:

"The power of self-government is essentially the power to decide who shall be permitted to earn his living by the pursuit of a particular calling. As pointed out by Professor Gellhorn, the basic civil right involved in professional self-government is 'the right to make a living' in the calling of one's choice. Since the power must be exercised only for the protection of the public, the real question is by whom and in what manner should it be exercised. It can be strongly argued and to some extent, it has been recognized in Ontario that a power which so circumscribes the freedom of the individual to earn his livelihood by any lawful means, should not be exercised except under government control."

A further case in point is the manner in which dental hygienists came into being and recent proposals by the dental profession to create another ancillary body known as "dental prosthetic therapists", who have not yet emerged and will likely never emerge. Former Ontario Chief Justice McRuer, in the report of The Royal Commission Inquiry into Civil Rights, made the following comments respecting the creation of dental hygienists on page 1167 of the aforesaid report:

"Under the Dentistry Act no power is provided to make regulations. However, the Board of Directors of the Royal College of Dental Surgeons of Ontario may pass by-laws. It is clear from the matters covered in the by-laws that these are intended to serve the same purpose as regulations. Non-administrative matters (e.g. the prescribing of admission standards which the Board is empowered to do) should be dealt with in statutory regulations.

"Although the Board is authorized, subject to the approval of the Lieutenant-Governor-in-Council, to pass by-laws providing for the establishment, development and regulation of an ancillary body (dental hygienists) such provision has in fact been made by regulation. NOT ONLY DOES THE BOARD HAVE THE ANOMALOUS POWER TO GOVERN THE PRACTITIONERS OF A SEPARATE OCCUPATION, BUT THE POWER HAS BEEN EXERCISED BY MAKING REGULATIONS FOR WHICH THERE IS NO STATUTORY AUTHORITY."

### WHAT CAN THE PUBLIC DO?

Over the last few months, in previous open letters to the public, we have appealed to the people of Ontario to write or contact their Member of the Provincial Parliament and express their support for the passage of legislation which will allow denturists to practise freely without fear of prosecutions and fines. Many persons throughout the Province have responded to our appeal for assistance and have contacted their Member of the Legislative Assembly. Support for our efforts is increasing day by day since every day hundreds of persons throughout the Province are availing themselves of the services of denturists — many, after years of discomfort and pain caused by ill-fitting dental appliances. More and more denturists are convinced on the basis of the results they have obtained with these unfortunate persons, that they have a vital role to play in providing much-needed denture services to the public.

It is public support for our efforts, however, that will determine the outcome in our continuing struggle with the dental profession. Whether or not we will be forced out of business by harassment and excessive fines, only time will tell. If it is your wish to have denturists recognized under appropriate legislation, then we urge you again to continue your fine efforts on our behalf.

If you require the name and address of your Member of the Provincial Parliament please feel free to phone or write:

## THE DENTURIST SOCIETY OF ONTARIO

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