

has been submitted to me and I am therefore unable to pass upon the same. I would suggest that a deed be prepared for the purpose of conveying the title of said Carl E. Hostetter to the State of Ohio and the same be submitted to this office for approval as to form.

I am returning herewith all papers submitted in this connection.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1311.

DENTIST—MAY MAINTAIN MORE THAN ONE OFFICE PROVIDED HE DISPLAYS A LICENSE IN CONFORMITY WITH SECTION 12711, GENERAL CODE.

**SYLLABUS:**

*Under the laws of Ohio a person who is licensed to practice dentistry in this state may maintain more than one office for the practice of dentistry, provided said person displays a license in conformity with Section 12711, General Code.*

COLUMBUS, OHIO, November 29, 1927.

DR. RAY R. SMITH, *Secretary, Ohio State Dental Board, Columbus, Ohio.*

DEAR SIR:—Receipt is acknowledged of a communication from you in which you submit the following question:

“If it is unlawful for a person or persons to practice, other than under his own name, how is it possible for one to own more than one office? Especially under Section 12711, wherein it states; ‘Whoever engages in the practice of dentistry and fails to keep displayed in a conspicuous place in the operating room in which he practices, and in such manner as to be easily seen and read, the license granted him pursuant to the laws of this state shall be fined not less than fifty dollars nor more than one hundred dollars.’”

The practice of dentistry is defined in Section 1329, General Code, as follows:

“A person shall be regarded as practicing dentistry who is a manager, proprietor, operator or conductor of a place for performing dental operations or who, for a fee, salary or other reward paid or to be paid either to himself or to another person, performs, or advertises to perform, dental operations of any kind, treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof, or who uses the word ‘dentist,’ ‘dental surgeon,’ the letters ‘D. D. S.,’ or other letters or title in connection with his name, which in any way represents him as being engaged in the practice of dentistry.”

In the question which you submit you evidently refer to Section 1329-1, General Code, which provides:

“It shall be unlawful for any person or persons to practice or offer to practice dentistry or dental surgery, under the name of any company, asso-

ciation, or corporation, and any person or persons practicing or offering to practice dentistry or dental surgery shall do so under his name only; any person convicted of a violation of the provisions of this section shall be fined for the first offense not less than one hundred dollars, nor more than two hundred dollars, and upon a second conviction thereof, his license may be suspended or revoked, as provided in Section 1325 of this act."

This section was under consideration in the case of *Ex Parte Craycraft*, decided by the Common Pleas Court of Hamilton County, March 12, 1916, and reported in 24 N. P. (N. S.) 513. That case involved a consideration of an advertisement in the name of "Philadelphia Painless Dentists, Norwood, Ohio," and the court in holding Section 1329-1 unconstitutional said on page 522:

"A provision of the statute requiring that the name of the dentist should appear in readable letters in connection with the 'advertising name' might be considered a salutary provision of the statute to protect the public against fraud and imposition. But we are not called upon to decide this particular question in the case at bar as Section 1329-1 contains no such qualification. Section 1329-1 virtually prohibits any dentist from practicing dental surgery under any other name except his own. If this was held to be a proper exercise of police power, all of the 'good will' attached to such names as 'New York Dental Parlors,' 'Albany Dentists,' etc., would be wiped out; the property rights in these names would be *nil* and an irreparable loss would be suffered by those who for years have used these names and built up a large and legitimate practice under these designations. What is there to prevent the Legislature of the State of Ohio from passing a law requiring all soap manufacturers to sell their soap under their own names only, so that the purchasing public might know where to look for recourse in case a certain soap should contain ingredients detrimental to the user's health? If our Constitution would permit the enactment of such a law, the most extensive industry for which Cincinnati is noted would be put out of business instantaneously.

Section 1329-1 is certainly an abuse of the police power of the State, and therefore unconstitutional."

The above case was apparently not carried to the Court of Appeals or the Supreme Court and I find no other reported case which overrules or reverses the same. In view of the fact that the case has stood for more than eleven years without being attacked, it is my opinion that while not conclusive it is at least indicative that the lawyers and the courts regard Section 1329-1 as unconstitutional.

Section 12711, General Code, to which you refer, reads:

"Whoever engages in the practice of dentistry and fails to keep displayed in a conspicuous place in the operating room in which he practices, and in such manner as to be easily seen and read, the license granted him pursuant to the laws of this state shall be fined not less than fifty dollars nor more than one hundred dollars."

The above section makes it a misdemeanor to engage in the practice of dentistry without keeping displayed in a conspicuous place in the operating room in which he practices the license granted to him pursuant to the laws of this state. The words "whoever engages in the practice of dentistry" would seem at first glance to be broad enough to include a person who is a manager, proprietor, operator or conductor of a place for performing dental operations, as provided in Section 1329, General Code,

supra. However, it must be remembered that Section 12711 is a penal section and must be strictly construed, and the words "in the operating room in which he practices," as used in said Section 12711, would seem to limit the operation of that section to persons who actually perform dental operations rather than to include therein the manager, proprietor, operator or conductor of a place for performing dental operations.

The specific question which you ask was under consideration in an opinion of this department rendered on November 30, 1923, and appearing in the Attorney General's Opinions for that year on page 757. The syllabus of that opinion reads as follows:

"Under the laws of Ohio a person may maintain more than one office if said person displays a license in conformity with Section 12711 G. C."

In the opinion it was said:

"By the above section a person practicing dentistry must keep on display at all times in the operating room his license to practice. It is conceivable that a person having one or more offices might, by taking his license with him, be able to display the same in all offices while engaged in said practice.

Investigation of other statutes relating to the practice of dentistry fails to reveal any section which would prevent any person from having more than one office when the practice in such office is in compliance with the statutes relating to the practice of dentistry.

It is therefore my opinion that a person may, under the law in Ohio, maintain more than one office if such person displays a license in conformity with Section 12711."

In view of the foregoing, it is my opinion that under the laws of Ohio a person who is licensed to practice dentistry in this state may maintain more than one office for the practice of dentistry, provided said person displays a license in conformity with Section 12711, General Code.

Respectfully,  
EDWARD C. TURNER,  
*Attorney General.*

1312.

GAME PROTECTORS—MAY BE TRANSFERRED BY THE DIRECTOR OF AGRICULTURE FROM ONE COUNTY TO ANOTHER.

*SYLLABUS:*

*The Director of Agriculture has authority to transfer "game protectors" to such counties or places within the State of Ohio as he may deem advisable in the performance of his duties as Director of Agriculture.*

COLUMBUS, OHIO, November 29, 1927.

*Department of Agriculture, Division of Fish and Game, MR. D. O. THOMPSON, Chief, Columbus, Ohio.*

DEAR SIR:—This will acknowledge receipt of your letter which reads as follows: