

IN BRIEF

- The English pattern of an independent dental profession is clarified
- The main origin of dentistry in England in the Early Modern period is reinforced
- The legal basis for independence is demonstrated
- Both surgical and oral medicine functions are included

Ethics – the early division of oral health care responsibilities by Act of Parliament

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The question of how the profession of dentistry became what it is today, an independent and vigorous one, is an absorbing study. In this analysis of the legislation of the mid-sixteenth century and its effect on modern oral health care delivery, two Acts in particular are notable for their importance in the development of the self-determining practise of dentistry as we now enjoy it in the United Kingdom. The first of these is the 1540 Act uniting the Barbers' and Surgeons' Companies,¹ and the second is one dating from two years later; 'A Bill that Persons, being no common Surgeons, may minister Medicines, notwithstanding the Statute'.² Apart from a brief period of 35 years extending from the Dentists Act of 1921 to the Dentists Act of 1956, when the Dental Board of the United Kingdom (which after 1956 became the General Dental Council), was subject to the over-riding control of the General Medical Council,³ the delivery of oral health care in England has enjoyed an independence which is here identified as having its origin in these Acts 450 years ago in the reign of Henry VIII.

When writing her book *A short history of dentistry* in 1933,⁴ Lilian Lindsay, like others since, addressed two important historical questions: who delivered oral healthcare and why did the specialty emerge separate from the discipline of surgery? This paper addresses the important third question. How was independent development in both oral surgery and oral medicine possible?

This independent development should not have been possible, for the Tudor England of the sixteenth century was a legalistic age, and two separate sets of controls existed for medical practitioners. First, after 1511, specific Acts which Parliament

saw fit to pass, and second, the rules of the guild or fellowship to which they belonged. (Guild and fellowship rules could not be made without the approval of the Lord Chancellor after 1503⁵ during the reign of King Henry VII).

It is a considerable puzzle that the 'operators for the teeth', whether called tooth-drawers, dentists, apothecaries, druggists, or even mountebanks and quacks, could practise their art outside the law, except the common law of the land.

BACKGROUND

Identifiable oral healthcare (the modern term which with 'oral medicine' is used for convenience in this essay) is noted in England from very early days. The Edict of Tours of 1163 under which Pope Alexander III had forbidden those in holy orders from carrying out surgery, resulted in monks (who had previously carried out surgery) assuming the sole role of physician. The barbers who had up to then assisted the monks then took over the minor surgical operations from them. Sidney Young, writing in 1890 in his *Annals of the Barber Surgeons* could say with confidence '*In the early part of the reign of Edward II, and*

indeed for a long while previously, the barbers were practitioners in the art of surgery; at all events they performed the minor operations of that craft, such as bleeding, tooth-drawing, cauterization, and the like'.⁶

This craft matured into a guild activity, for although the Company of Barbers that had grown up was as much a professional association as a trade guild, it copied the practices of the trade guilds around it in London. The barbers who took over the bloodletting activities of the monks, and their rivals the surgeons, who had established a separate identity, had come so much to overlap in function by 1493 that the 'Composition' which united the overseeing of surgery (but did not then unite the companies) refers to the 'felishippis of barbours surgeons and surgeons barbours'.

Convention has it that the dental profession had its modern legal origin, rather than its professional origin, as part of the surgeons when the two 'felishippis' were finally united and the Barber Surgeons' Company was created by the Act of Parliament of 1540.

Careful examination, however, shows that the opposite was the case, and that it

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was the very law which united the barbers and surgeons that gave the function of drawing of teeth a separate and extra-legal identity, though it is very unlikely that the long-term significance of this exclusion was either planned or foreseen.

One of the difficulties of historical enquiry is to arrive at an opinion on how much social activity at any given time is the product of established custom, and how much the product of imposed legislation, and how much sheer accident. If to these two controllers of behaviour, custom and legislation, there are added other innate interactions of which inter-group rivalry and grooming are but two relevant to dental health care, the decision as to why our forbears did things as they did becomes one very difficult to make.

Fortunately, thanks to the way in which the Tudor laws were drafted, with a preamble to each Act containing much incidental human interest and saying why the Act was considered necessary, invaluable material does exist for the researcher, going some way to giving explanations.

An early Act of Henry VIII's reign, that of 1511,⁷ illustrates this, showing why it was required that surgeons and physicians be 'examined, approved, and admitted' and so in effect licensed. The second one of the Acts considered in this paper reminded its readers of this reasoning in its own preamble; *'...in the Parliament holden at Westminster in the third year of the King's most gracious reign, amongst other things, for the avoiding of sorceries, witchcrafts, and other inconveniences, it was enacted, that no person within the city of London, nor within seven miles of the same, should take upon him to exercise and occupy as physician or surgeon, except he be first (examined approved and admitted) by the Bishop of London and other...'*

It is this requirement to be examined, approved, and admitted, that somehow the tooth-drawers evaded, and the exclusion came about in a curious way. Parliament looked at the profession of surgery and the practise of barbering with the prudent eyes of the State, and the unifying Act of 1540 is a subtle and supple piece of public health legislation, for inter alia it united the management of the barbers and surgeons for the express purpose of dividing their function, in order to reduce the risk of cross infection.

This intention is clearly explained in the preamble to the Act;⁸ *'...the misterie or facultee of surgery, oftentimes medle and take into their cure and houses suche sicke and diseased persons as ben infected with the pestilence great pockes & such other contagious infirmities (and) do use or exercise barbari, as washynge, or shavyng, and other feates therunto belongyng, whiche is veraie perillous for*

infecting the kyngs liege people resortyng to their shoppes and houses ther beyng washed or shaven'.

1540: THE DRAWING OF TEETH

However, in the Act itself one exception was made to this separation, for although the surgeons were forbidden to *'exercyse the feat or craft of barbarie or shaving'* either themselves or through assistants, and the barbers could not *'occupy any surgery lettynge of blood, or any other thyng belonging to surgery'* there was a proviso *'drawing of teeth only excepte'* added to the barber's prohibition from surgery; and this turned out to have a crucial effect on the development of tooth-drawing and its successor, dentistry, as independent disciplines.

The Act at the time applied only to the City of London, its suburbs, and one mile beyond, but it set the pattern for the Kingdom, and the explicit retention in this Act, reflecting the status quo, of the right of the barbers to draw teeth, was not overlooked two hundred years later when in the eighteenth century there was another professional sorting-out.

In 1767 the physicians excluded all licentiates who had practised surgery from Fellowship, and twenty years earlier, in 1747, the surgeons themselves had petitioned Parliament for a separation from the Barbers, and for an end to the requirements of the 1540 Act. The barbers resisted, and presented a case to the Commons for remaining united, wherein is found this revealing passage; *'... tho' in the preamble of the uniting Act, both companies are stiled surgeons, yet from the enacting part (which expresly restrains the barbers from occupying any part of Surgery, except tooth-drawing) it is evident the legislature did not consider them as real surgeons...'*⁹

This shows that tooth-drawing had settled in a curious middle ground, as an art, a craft, but not real surgery, and therefore its practitioners still acknowledged as not being within the surgeons' legal pale. The case failed, and when the surgeons gained their independence, those four words from the 1540 Act *'Tooth-drawing only excepte'* kept the dentist/toothdrawers out of surgery, and in with the barbers.

1542: SORE MOUTHS

The second Act of great importance to the modern profession, was passed two years later, in 1542. *'A Bill that persons, being no common surgeons, may minister medicines, notwithstanding the statute.'*

It is not familiar in the ethico-legal canon of dentistry, and so is quoted at greater length.

The other significant arm of healthcare delivery, oral medicine, was and is of at least as much importance as tooth-drawing, and the powers given to the surgeons in the 1540 Act, or perhaps the powers the surgeons saw fit to apply in the interpretation of the Act, were taken well beyond our modern interpretation of surgery, and proved open to abuse. We have, in the legislation, documentary evidence that within two years the new Act of 1542 was required to protect a significant group of healthcare providers, who were not physicians, surgeons, or apothecaries, but all those who provided healthcare for love of humanity rather than love of money. The preamble to this Act is forthright in its condemnation of the surgeons.

'...the Company and Fellowship of Surgeons of London, minding only their own lucre, and nothing the profit or ease of the diseased or patient, have sued, troubled, and vexed divers honest persons, as well men as women, whom God hath endued with the knowledge of the nature, kind, and operation of certain herbs, roots and waters, and the using and ministring of them to such as been pained with...sore mouths...., and such other like diseases; and yet the said persons have not taken any thing for their pains or cunning, but have ministred the same to poor people only for neighbourhood and God's sake, and of pity and charity. And it is now well known, that the surgeons admitted will do no cure to any person, but where they know to be rewarded with a greater sum or reward than the cure extendeth unto; for in case they would minister their cunning unto sore people unrewarded, there should not so many rot and perish to death for lack of help of surgery, as daily do; but the greatest part of surgeons admitted been much more to be blamed, than those persons that they trouble.'

There then ensued the vitally important effective words in the Act whereby oral medicine (through those two key words in the preamble 'sore mouths') was freed from the monopoly control of the surgeons. It should be noted that the primary place of education and accountability was not omitted. Anyone could treat, but only if knowledgeable and experienced: it was an Empirics' Act;

'Be it ordained, established, and enacted by the authority of this present Parliament, that at all time from henceforth it shall be lawful to every person being the King's subject, having knowledge and experience of the nature of herbs, roots and waters, or of the operation of the same, by speculation or practice, within any part of the realm of England, or within any other the King's Dominions, to practise, use, and minister in and to any outward sore, uncome, wound, apostemations, outward swelling or disease, any herb or herbs, ointments,

baths, pultess and emplaisters, according to their cunning, experience and knowledge in any of the diseases, sores and maladies beforesaid, and all other like to the same, or drinks for the stone, strangury or agues, without suit, vexation, trouble, penalty, or loss of their goods; the foresaid Statute in the foresaid third year of the King's most gracious reign, or any other Act, Ordinance, or Statute to the contrary heretofore made in any wise notwithstanding.'

The inclusion of sore mouths in this 1542 Act is as important to the independent development of oral healthcare as the words *drawing of teeth only excepte* was in the unifying Act of 1540, for it established that the mouth could be thought of as external within the Law, and therefore treatable by those not subject to the control of the physicians and surgeons.

Had the tooth-drawing exception not been included in the 1540 Act, the surgeons, instantly jealous as they were seen to be of their privileges after the Act, could have retained the essential surgical function of dentistry to themselves, at great profit. They might not have wished to carry out a function which was intrinsically dangerous, required great skill, and demanded high technology instruments to perform safely and successfully, but they would have had no objection to the fees that registration and licensing would have

brought in. The option remained for members of the Royal College of Surgeons to practise and become expert in the diagnosis and treatment of oral disease, and in 1843 there were 12 such surgeon-dentists out of an estimated 200 full-time dentists in London.¹⁰

Had sore mouths not been specifically mentioned in the 1542 Act, the surgeons or the physicians (who eventually absorbed a large part of the medical function of the apothecaries) could have retained 'ownership' of the medical treatment of oral disease. That side of the apothecaries' function which evolved into the chemists who eventually eclipsed them, grew to purvey the tooth brushes and pastes, mouthwashes, aspirin and antibiotics and other necessities of oral medicine, but they had no legal control over the tooth-drawer and his or her successors.

CONCLUSION

Thus, in two years, nascent oral healthcare was, by Act of Parliament, whether by intention or not, enabled to proceed away from the physicians, the surgeons, or the apothecaries. The toothdrawers who grew to form the mainstream of dentistry as they increased their additional skills in repair and replacement were free of the requirement to register, (though a few did),^{11,12} and found themselves able

to develop both in 'English' America and the United Kingdom into the vigorous independent profession of today.

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1. Statutes at Large. 32 Henry VIII C42 *An Act concerning Barbour and Surgeons to be of one company.*
2. Statutes at Large; 34&35 Henry VIII. C8 *A Bill that Persons, being no common Surgeons, may minister Medicines, notwithstanding the Statute.*
3. Hindley-Smith D. The General Dental Council, its origins, purpose and functions. *Br Dent J* 1970; **128**: 345-349, 411-414.
4. Lindsay L. *A Short History of Dentistry.* London: John Bale, Sons and Danielsson Ltd, 1933.
5. 19 Henry VII C 7 *For making of Statutes by Bodies incorporate*
6. Young S. *Annals of the Barber Surgeons.* London: Blades East & Blades, 1890 p.22
7. Statutes at Large. 3 Henry VIII C 11 *An Act for the appointing of Physicians and Surgeons.*
8. Here taken from Young *Annals of the Barber Surgeons.* Appendix C, in the old English of the Black Letter document rather than the English of the Statutes at Large of the other extracts
9. Young. Appendix E. pp594-596.
10. Tomes J, et al. Letter to Anthony White, Esq., President, and to the Council of the Royal College of Surgeons, p.29. In Hill *A Reform in the Dental Profession.* London: Trübner & Co, 1877.
11. Hargreaves A S. *'Touch and Go': Toothdrawers in England.* Lindsay Society for the History of Dentistry, 1998.
12. Bishop M. Gelbier S. Gibbon D. Ethics-dental registration in the seventeenth and early eighteenth century *Br Dent J* 2001; **191**: 395-400.