

1961
—
WESTERN AUSTRALIA
—

REPORT

of the

HONORARY ROYAL COMMISSION

appointed to enquire into
the provisions
of the

NATURAL THERAPISTS BILL

PRESENTED TO BOTH HOUSES OF PARLIAMENT

PERTH :
—
By Authority: ALEX. B. DAVIES, Government Printer
1961

Royal Commission to Inquire into Matters Relating to Natural Therapists

To His Excellency Lieutenant-General Sir Charles Henry Gairdner, K.C.M.G., K.C.V.O., K.B.E., C.B., Governor in and over the State of Western Australia and its Dependencies in the Commonwealth of Australia:

May it Please Your Excellency,—

We, the members of the Honorary Royal Commission appointed to inquire into and report upon matters relating to Natural Therapists, have the honour to present to Your Excellency our report as follows:—

1.—HISTORY.

On Wednesday, 9th day of September, 1959, the Hon. J. T. Tonkin introduced in the Legislative Assembly a Bill to provide for the Training, Qualification and Registration of Persons as Natural Therapists and the Practice of Natural Therapies; and matters incidental thereto. The Bill was debated and the second reading was passed by the Legislative Assembly on Thursday, 19th November, 1959, and on the same day Mr. H. N. Guthrie moved in the Legislative Assembly—

That the Bill be referred to a Select Committee.

The Legislative Assembly agreed to the motion on the same day and appointed the Hon. J. T. Tonkin, Dr. G. G. Henn, Messrs. W. A. Manning and J. J. Brady, and the mover, as a Select Committee with power to call for persons and papers and to sit on days over which the House stands adjourned, and to report on the 26th November, 1959. This date was subsequently extended.

The Select Committee held two meetings but heard no evidence. At a meeting which took place on the 2nd of February, 1960, in view of the fact that Parliament was already adjourned and it was then apparent that an anticipated special session sitting in March, 1960, would not occur, it became desirable to apply for the status of an Honorary Royal Commission.

On the 10th February, 1960, the members of the Select Committee were duly appointed by Your Excellency as an Honorary Royal Commission. The terms of the appointment as published in the *Government Gazette* on the 12th day of February, 1960, were as follows:—

ROYAL COMMISSION.

WESTERN AUSTRALIA,
TO WIT,
CHARLES HENRY
GAIRDNER,
Governor.
[L.S.]

By His Excellency Lieutenant-General Sir Charles Henry Gairdner, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Knight Commander of the Royal Victorian Order, Knight Commander of the Most Excellent Order of the British Empire, Companion of the Most Honourable Order of the Bath, Governor in and over the State of Western Australia and its Dependencies in the Commonwealth of Australia.

To Hugh Norman Guthrie, Esq., the Honourable John Trezise Tonkin, Doctor Guy Gavin Henn, William Allan Manning, Esq., and John Joseph Brady, Esq., Members of the Legislative Assembly:

I, the said Governor, acting with the advice and consent of the Executive Council, do hereby appoint you, Hugh Norman Guthrie, John Trezise Tonkin, Guy Gavin Henn,

William Allan Manning and John Joseph Brady, Members of the Legislative Assembly, to be an Honorary Royal Commission without payment of remuneration—

(1) To inquire into—

(a) The present position in Western Australia concerning the operations of and disabilities suffered by chiropractors, osteopaths and naturopaths, including facilities for and standards of (whether in Western Australia or elsewhere) training of such persons or any of them.

(b) The disabilities (if any) suffered by the public at large by reason of any legal limitation at present existing relative to practice by chiropractors, osteopaths, or naturopaths.

(c) The desirability or otherwise of encouraging the practice in Western Australia by chiropractors, osteopaths and naturopaths.

(d) The desirability or otherwise of registering and the practicability of training (either in Western Australia or elsewhere in Australia) of—

(a) chiropractors;

(b) osteopaths;

(c) naturopaths; or

(d) all three classes of practitioners as natural therapists

(e) The extent to which the methods used by such persons are now being used by persons registered under other Acts and the possibilities of the further development of such methods by persons registered under such other Acts.

(2) To report to me and to submit such recommendations on the above matters as the Commission shall think fit.

And I hereby appoint you, the said Hugh Norman Guthrie to be the Chairman of the said Royal Commission.

And I hereby declare that by virtue of this Commission you may in its execution do all such acts, matters, and things and exercise all such powers as a Royal Commission or members of a Royal Commission may lawfully do and exercise whether under or pursuant to the Royal Commissioners' Powers Act, 1902, and its amendments or otherwise.

Given under my hand and the Public Seal of the said State, at Perth, this 10th day of February, 1960.

By His Excellency's Command,

DAVID BRAND,

Premier.

GOD SAVE THE QUEEN ! ! !

The Honorary Royal Commission met at 10.30 a.m. on Monday, the 15th February, 1960, to commence its inquiries and sat on 29 days having heard evidence on 19 of those days. In all 48 witnesses were heard and notes covering 1,162 pages were recorded.

2.—PROCEDURE.

The Commission generally met in public but on one occasion did agree to hear portion of the evidence of one witness in camera. Other applications were made by witnesses to have portion of their evidence taken in camera but on each occasion the request was refused as it was felt that it was in the public interest that all evidence should be heard in public except where it could cause great harm or injury to a particular individual by premature publication of names or facts.

3.—EVIDENCE.

Apart from hearing the *viva voce* evidence referred to above the Commission admitted 98 Exhibits, particulars of which are—

1. Pamphlet—"Exercises—The Broth" (Mr. Watts).
2. Pamphlet—"Diet (for One Week Only)" (Mr. Watts).
3. Pamphlet—"Eye Culture Exercises" (Mr. Watts).
4. Notes re charges made against Mr. Watts under the Medical Act.
5. Notes re G. H. Watts ats. Optometrists Board.
6. Copies of Certificates of Analysis from Government Analyst.
7. Pamphlet—"Bio-Chemic Remedies," by Martin & Pleasance.
8. Pamphlet—"Mira Louise Health Centre"—Bio-Chemic Supply Co.
9. Samples of Dr. Schuessler's Salts.
 - (a) Kali Mur. 6x.
 - (b) Calcarea Sulph. 6x.
10. Pax Osteopathic College of Australia (Ballarat)—Prospectus.
11. Copies of Receipt and Correspondence—James E. Doyle and Mr. Watts.
12. Memo. Book—"Handwritten Diagrams of the Eye." Mr. Watts.
13. Textbook—"Science of Iridiagnosis," by Victor Davidson.
14. Copy of letter—Rose-Croix Institute (California) to Mr. Watts.
15. Australian Chiropractors' Assen.—Constitution and Rules.
16. Report of Royal Commission—Province of British Columbia.
17. Chiropractic Act 1949—South Australia.
18. Copies of Testimonials (7)—Mr. Koutsouvelis.
19. Extract from letter—United Practitioners' Assen. of Australia, to Mr. F. Curran.
20. W.A. Council of Women—Typed questionnaire to chiropractic organisations.
21. W.A. Council of Women—Letter and pamphlet from British and Aust. Institute of Naturopathy (Melb.).
22. W.A. Council of Women—Letter from German Consulate, Melb.
23. Lincoln Chiropractic College—Catalogue 1955-1956.
24. File of Letters (7)—W.A. Citizens' Chiropractic Assen.
25. Official Directory of Insurance Companies of America.
26. "Week End Mail" cutting 5th October, 1957—"He's just a Nephew, but they call him the Martinovich of Geraldton."
27. Pamphlet—"The Present Day Doctor of Chiropractic."
28. Journal of the National Chiropractic Assen.—September 1955.
29. Pamphlet—"The Chiropractic Profession."
30. Letter to Medical Board—Dr. Cullity re Mrs. A. Hurd.
31. Complaint against D. G. Koutsouvelis.
32. File re D. G. Koutsouvelis.
33. Statement to Medical Board—J. Parson re H. G. Watts.
34. Complaint against H. G. Watts.
35. File re H. G. Watts.
36. Complaint against H. G. Watts.
37. List of Diet Instructions by W. A. Rayner.
38. Complaint against W. A. Rayner.
39. Solicitor's file re W. A. Rayner.
40. Professional Card—Dr. John Maloney.
41. Complaint re J. W. Maloney.
42. File re J. W. Maloney.
43. File re L. Harrison.
44. Photograph—Carcinoma patient.
45. Medical Board File re Mrs. E. T. Kruk.
46. British College of Naturopathy—Prospectus.
47. Memorandum and Articles of Association—Research Society for Naturopathy.
48. Compilation of State Laws (U.S.A.) governing Chiropractic.
49. Magazine—"Health and the Organic Gardener"—July 1959.
50. British Naturopathic Assen.—Directory of Practitioner Members.
51. Magazine—"Health for All"—January 1960.
52. B.N.A. (British Naturopathic Assen.) News No. 3—Nov./Dec. 1959.
53. Agriculture Department of W.A. Bulletin No. 2529—"Use of Copper and Zinc in Cereal Growing Districts of W.A."
54. B.N.A. News No. 8—July/August 1958.
55. Journal of the National Chiropractic Assen.—Vol. 29, No. 3, March, 1959.
56. Act Regulating the Practice of Chiropractic—California.
57. Canadian Naturopathic Assen.—President's Report, April 1959.
58. Brief of Canadian Naturopathic Association to Department of National Health and Welfare—March 1955.
59. An Act of Congress (U.S.A.), February, 1931, re Naturopathy.
60. United Health Practitioners' Association of Australia—Circular and Newspaper cutting, October 1945.
61. X-ray Photographs (6) and Reports (2)—O. W. G. Willshire.
62. British School of Osteopathy—Prospectus.
63. British and Aust. Institute of Naturopathy—Pamphlet—"Practical Osteopathic and Chiropractic Courses."
64. Photographs of Pax Osteopathic College, Ballarat, Victoria.
65. Chart of Body as an Organism.
66. Annexures to Matron Davidson's Evidence.
67. Annexures to Matron Davidson's Evidence.
68. Annexures to Matron Davidson's Evidence.
69. Annexures to Matron Davidson's Evidence.
70. Annexures to Matron Davidson's Evidence.
71. Annexures to Matron Davidson's Evidence.
72. Letter to Mr. W. Schipperli—from W. Shepley.
73. Letter to Mr. W. Schipperli—from G. Mendon.
74. Letter to Mr. W. Schipperli—from Heather A. Haynes.
75. Extracts from Pamphlet on Heart Ailments—(N. Westphal).
76. "Chiropractic Journal," November 1959.

77. Booklet—"The Chiropractic Profession."
78. Extracts from the American Medical Association Journal re Hoxey Cancer Treatment.
79. 14th Annual Report—Hospital for Natural Healing—1948-1949.
80. Report on Miss Finley from the Radiological Clinic.
81. Extracts from the British School of Osteopathy's Prospectus prepared by Miss Finley.
82. "Osteopathy as a Career"—Pamphlet issued by British School of Osteopathy.
83. "Picture Post"—issue dated 28th February, 1949.
84. "The Osteopathic Quarterly"—Spring 1956 issue.
85. The John Martin Littlejohn Memorial Lecture of 1955.
86. The John Martin Littlejohn Memorial Lecture of 1953.
87. Notes on Homeopathy—prepared by Miss Finley.
88. Souvenir Copy of "Homeopathic Journal"—Visit by H.M. the Queen.
89. "Health and You"—Journal, December 1955 issue.
90. Prospectus of the Post-Graduate School of Homeopathy.
91. A Bill for an Act to be known as the "Professions Supplementary to Medicines Act" ordered to be printed by the House of Commons on 2nd February, 1960.
92. Schedule prepared by Miss Finley—Costs of Training Students at certain Colleges in Natural Therapies.
93. Resolutions carried by the Australian Health Freedom Council in regard to Legislation.
94. Patients referred to P. Noble by Drs. "A" and "T."
95. Patients referred to P. Noble by Dr. "W."
96. Patients treated by P. Noble for Insurance Companies.
97. Patients referred to Dr. "T" by P. Noble.
98. Patients referred to P. Noble by other Medical Practitioners.

4.—COUNSEL AT PROCEEDINGS.

As no charges against anyone arose the Commission did not seek the assistance of Counsel, and did not have any application from any person or organisation to permit it to be represented by Counsel. No request was made by any witness, on being questioned, to have any question postponed to enable him to obtain legal advice. One witness, however, did request a ruling of the Commission as to whether he could be held responsible in any action for defamation after he answered certain questions. The Chairman informed such witness that in his opinion the giving of the necessary evidence would be privileged.

5.—GENERAL PRINCIPLES INVOLVED.

The Commission was at all times during the course of the inquiry and still is of the opinion that there were four basic principles arising out of the matters referred to it, namely—

- (a) If the State or any authority licenses any person to carry on any particular profession connected with health it should follow that the State gives a certificate to the effect that such person has attained a reasonable

standard of proficiency in that calling; and consequently there is an obligation on the State or authority to ensure that the requisite standard of proficiency of such person is in fact established, at the time of registration.

- (b) Notwithstanding what has been stated in the previous subparagraph, it is possible for the State to establish registers of health practitioners, and by so doing indicate to the public that the persons whose names appear on any particular register appear to have proficiency; but it is not necessary, in such circumstances, to issue an actual license to the persons so registered, nor to pass legislation prohibiting the practice of the particular profession by any other persons.

The effect of such procedure is that the public is informed as to whom are the persons practising the particular profession who may be said to be qualified and by inference indicating the persons who may or may not be so qualified.

- (c) That each individual member of the public is entitled to the privilege of making his own selection of the particular professional man or professional class he will engage to assist him or advise him on any particular problem which besets him.

It is not for the State to tell him that he must go and go only to a certain class of registered practitioners. If the ordinary citizen, in his own wisdom, wishes to consult a person or persons who may not necessarily be properly qualified to give him the advice sought, then that is the concern of the individual and not the concern of the State. This, however, must be qualified to some extent by the principles enunciated in the next sub-paragraph.

- (d) There are, however, occasions (and public health is definitely one of them) when the State owes a duty to its citizens to make sure that the public as a whole, or individuals in it, are not harmed by the activities of persons who have no particular qualifications to practice any particular profession or art.

In the cases of ailments or injuries it must be recognised that irreparable damage can be occasioned to particular persons and in some instances to the community at large (by, say, the spread of a contagious disease) through persons being permitted to practise any profession for which they may have been inadequately or improperly prepared.

The Commission, at all times, had those principles very prominently in its mind when it examined witnesses and gave its considera-

tion to the value or otherwise, credibility or otherwise, of their evidence. At the same time, the Commission also had very forcibly in its mind the privileges of the individual citizen as enunciated in sub-paragraph (c) and, in fact, this point was made with great force by more than one witness, but notwithstanding that principle, the Commission feels that the interests of the public as a whole can, in many instances—as will be seen later in this report—override that particular human liberty.

6.—EXISTING LEGISLATION

Before dealing with legislation at present on the Statute Book it is convenient at this point to state that the Commission's inquiries resolved themselves into examining the activities and the possible future activities, together with the desirability for such future activities, of—

- (a) Chiropractors;
- (b) Osteopaths; and
- (c) Naturopaths.

It should be observed at this point that it is a reasonable assumption that naturopaths and osteopaths to some extent practise in the field normally covered by dietitians.

The following legislative enactments have bearing on the matter, namely—

- (i) The Medical Act, 1894-1955.
- (ii) The Physiotherapists Act, 1950-1954.

Taking the Medical Act first, the section which is of chief concern to the Commission is Section 19, which reads as follows:—

19. From and after the passing of this Act no person other than a medical practitioner shall be entitled to—

- (1) Practise medicine or surgery in all or any one or more of its branches; or to
- (2) advertise or hold himself out as being, or in any manner to pretend to be, or to take or use the name or title (alone or in conjunction with any other title, word, or letter) of a physician, doctor of medicine, licentiate in medicine or surgery, master in surgery, bachelor of medicine or surgery, doctor, surgeon, medical qualified or registered practitioner, apothecary, accoucheur, or any other medical or surgical name or title; or to
- (3) Advertise or hold himself out, directly or indirectly, by any name, word, title or designation, whether expressed in words or by letters or partly in the one and partly in the other (either alone or in conjunction with any other word or words) or by any other means whatsoever, as being entitled or qualified, able, or willing or by implication suggests that he is able or willing or in any manner pretends to practise medicine or surgery

in any one or more of its or their branches or to give or perform any medical or surgical service, attendance, operation or advice or any service, attendance, operation or advice which is usually given or performed by a medical practitioner.

Provided that this paragraph shall not apply to a person practising as a dietitian or as a chiropractor who gives advice or service to persons requiring dietetic or chiropractic advice or service.

And every person who, for himself or as assistant, servant, agent, or manager, does or permits any act, matter, or thing contrary to this section or any part thereof, shall be guilty of an offence.

Penalty—For a first offence, fifty pounds with a minimum of two pounds, and for any subsequent offence, one hundred pounds or imprisonment for six months.

Nothing in subsection (1) contained shall prejudice or affect the lawful business or occupation of a chemist or druggist, or of a pharmaceutical chemist, and nothing in this section contained shall prejudice or affect the lawful business or occupation of a dentist registered under the "Dentists Act, 1894."

Particular attention should be paid to the proviso appearing after subsection (3) of that section. The Commission has proceeded on the basis that the proper legal construction of Section 19 is that the proviso in question qualifies all three subsections preceding it and not subsection (3) only. It is not for the Commission—being constituted as it is of four laymen and one lawyer—to express or attempt to give a definite legal opinion on the matter, particularly as it did not have the advantage of hearing argument by learned counsel.

So far as the Physiotherapists Act, 1950, is concerned, that Act was passed to provide for the training, qualification and registration of persons as physiotherapists and practice of physiotherapy and matters incidental thereto. Under the Act a board has been set up, and in Section 12 certain persons were excluded from the effect of the Act, and not required to register. It is sufficient for the purposes of the inquiry of your Commission to mention only two of those exclusions and they are as follows:—

- (a) Persons engaged in the practice of osteopathy, and
- (b) Persons engaged in the practice of chiropractic.

In subsection (2) of that section definitions are given of the meaning of the words osteopathy and chiropractic. Those definitions are as follows:—

"osteopathy" means the adjustment by hand only of the bones or soft tissue of the human body for the purpose of curing or alleviating any disease or abnormality of the body;

"chiropractic" means the system of palpating and adjusting the articulation of the human spinal column by hand only, for the relief of nerve pressure.

It is noteworthy that although the Physiotherapists Act supplies a definition of what is chiropractic, the Medical Act, which also makes reference to a chiropractor, supplies no such definition. Similarly, the Medical Act supplies no definition of what is a dietitian or a diatetic service or advice.

As a result of those two Acts it is reasonable to assume that there were members of the public who interpreted the legislation as meaning that Parliament had intended that osteopaths, chiropractors and dietitians to some extent were entitled to continue their respective callings.

In the case of osteopaths the most that can be said is that they were relieved from registering under the Physiotherapists Act, and it was declared that it was not unlawful for them to apply massage or heat to the human body when they were engaged in the practice of osteopathy. Having said that the legislature left the matter on a somewhat uncertain note.

In the case, however, of chiropractors and dietitians the legislature went one step further in the Medical Act and appeared to intend that a dietitian or chiropractor who gave advice or service to persons requiring dietetic or chiropractic advice or service was to be permitted to do so. Furthermore, a chiropractor was relieved (in the same manner as an osteopath) from registration under the Physiotherapists Act.

7—EFFECT OF EXISTING LEGISLATION.

This subject has been touched, to some extent, in the previous chapter. In this chapter it is proposed to deal in some detail with the effect and intention of the legislation mentioned in the previous chapter, so far as it relates to all of the three classes of practitioners who were the subject of the inquiry. Taking each of them separately the Commission would comment as follows:—

(a) Chiropractors.

There appears to have been some intention on the part of the legislature in the year 1945 to recognise chiropractors, and an examination of *Hansard* at the time rather supports this point of view. Although a court of law would not turn to *Hansard* for assistance or guidance in interpreting a statute, it was felt by the Commission that it was entitled to do so. After all, the Commission is charged with the responsibility of advising Your Excellency on the desirability or otherwise of introducing certain legislation, and is not charged with the responsibility of considering the existing legislation and giving anything in the nature of an interpretation or construction thereof.

In view of that, the Commission feels that, no doubt, chiropractors generally have been encouraged in their belief (and in fact some of them gave evidence to this effect) that in Western Australia they were entitled to practise their calling so long as they did not exceed the bounds of what could be generally said to be chiropractic advice or service. Evidence was given to the Commission by the President of the Medical Board of Western Australia on a number of prosecutions which had been brought under Section 19 of the Medical Act, but there does not appear to have been a case where a chiropractor has been prosecuted for carrying out what could be termed to be strict chiropractic advice or service.

(b) Osteopaths.

As has been noted above there is no mention at all of osteopaths in the Medical Act, and the only reference to that class of practitioner is contained in the Physiotherapists Act. Whether or not it can be said from a legal point of view there is a conflict of law on this point is not for the Commission to say, but the Commission draws Your Excellency's attention to the possibility of this being urged on some appropriate occasion. To elaborate a little, the Medical Act (having made some reference to chiropractors and dietitians) makes no mention of osteopaths. Section 12, however, of the Physiotherapists Act does specifically refer to an osteopath and it may be argued that Parliament, having in one statute given some privilege to an osteopath, could not be said to have deprived him of his right to practise so long as he practises to the limited extent mentioned in the particular section of the Physiotherapists Act.

Finally, it should be observed that in Section 11 of the Physiotherapists Act it is implied that a physiotherapist is entitled to practise with complete immunity so long as he is registered and conducts himself in accordance with the provisions of the statute as a whole. That privilege, of course, is not accorded to an osteopath and Section 11 is phrased in a somewhat negative manner.

However, it must be observed that the evidence given to your Commission clearly suggests that osteopaths, in the general conception of the following of their calling as understood by the practitioners themselves, go far beyond the adjustment by hand only of the bones or soft tissue of the human body for the purpose of curing or alleviating any disease or abnormality of the body.

Osteopaths to some extent engage in dietetics and consequently the remarks in the next subparagraph relating to dietitians will have some applicability to osteopaths.

(c) Naturopaths.

It is to be noted that there appears to be no legislation at all in this State making any direct reference to naturopaths generally, but the evidence given before your Commission clearly established that naturopaths place great reliance on diet and on the assistance in treatment of human ailments by dietetic methods. To such extent, and limited to their dietetic activities only, naturopaths are covered to some extent by legislation.

In dealing with dietetics, as mentioned in Section 19 of the Medical Act, the Commission found itself in some difficulty. As has been mentioned, Parliament did not define the word and consequently there is room for doubt as to whether it covers (a) any person (with or without qualification) who gives dietetic advice or (b) only those people who can be said to have proper qualifications or (c) is confined solely to persons who actually prepare diet charts.

However, once the naturopath departs outside the bounds of the practice of dietetics he appears to stray into the field which is reserved by the Medical Act to the qualified medical practitioner, and there are many cases (of which evidence was given before the Commission) where naturopaths (who, in the main, might have been said to be dietitians) were, in fact, successfully prosecuted and convicted of offences against Section 19 of the Medical Act. Again, in regard to these practitioners, the Commission made some reference to the *Hansard* reports of the 1945 debates when the proviso to Section 19 of the Medical Act was inserted, and certain other amendments were made to that Section.

It was stated in evidence by one naturopath that he had always believed that the reference in the proviso to dietitians was inserted to cover his particular case. An examination of *Hansard* discloses that the name of one individual was mentioned in the debate, but *Hansard* again reveals that the witness before the Commission was not the person whose name was so mentioned. In fact, the person whose name was so mentioned did not give evidence before the Commission at all and the Commission has no evidence as to whether such person (if alive) is in practice. It is the belief of some members of the Commission that the particular person has died or, at least, departed from Western Australia.

8.—EXTENT TO WHICH PRACTICES OF NATURAL THERAPISTS CAN BE SAID TO BE COVERED BY OTHER PROFESSIONS.

In order to examine this question adequately it is necessary to divide the practitioners who may be said to be generally covered by the phrase "natural therapists"

into four classes instead of the three classes which have been used up to the present point in this report. These four classes are—

- (a) chiropractors;
- (b) osteopaths; to the extent to which they practise beyond the normal realms of a dietitian;
- (c) naturopaths to the extent which they practise beyond the normal realms of a dietitian;
- (d) dietitians.

It is proposed, for convenience, to take each one of the four categories separately, namely:—

(a) Chiropractors.

The evidence quite clearly discloses that to a considerable extent the types of injuries and ailments which are treated by chiropractors are also treated by orthopaedic surgeons and physiotherapists working together. It is the conclusion of the Commission, however, that it would be wrong to assume that an orthopaedic surgeon solely undertakes all the types of treatment and manipulation undertaken by a chiropractor. It would be equally wrong to assume that all the types of treatment and manipulation undertaken by a chiropractor are, in fact, also undertaken by a physiotherapist.

It should also be observed that the orthopaedic surgeon with his very extensive training in medical practice and his better knowledge of the entire ambit of disease and injury to the human body should be regarded as better qualified than the chiropractor to diagnose in this field. The ideal would be for the chiropractor to work in conjunction and under the direction of the orthopaedic surgeon but it is doubtful that this will be achieved in the foreseeable future because of basic differences in principle and belief held by the two practitioners. The evidence before the Commission was that the orthopaedic surgeon did not possess complete knowledge of the art and principles of chiropractic. We will make a more detailed examination of this problem later in this report. It should be added, however, that the medical practitioner in the main completely rejects the principles of the chiropractor, although it would seem that he has not made a complete study of what those principles are.

- (b) Osteopaths, to the extent to which they Practise beyond the Realms of a Dietitian.

Although the Commission heard evidence on osteopathy it feels that this was incomplete. It is of the opinion that more evidence was needed to enable the Commission to obtain a clearer picture of the art of osteopathy. In view of this the Commission prefers to make no finding or recommendation regarding osteopathy so far as they do not practise dietetics.

- (c) Naturopaths to the extent that they may be said to Practise beyond the Realms of a Dietitian.

It is sufficient to state in this part of the report that the activities of these persons in this particular part of their field are completely covered by medical practitioners

even though (as in the case of osteopaths) the two types of practitioners have totally different concepts and beliefs on the proper methods of treating human ailments.

(d) Dietitians.

One very experienced witness in the art of medicine expressed the view that a dietitian performs a very useful service in the community. He explained that dietitians (in his view) were a desirable ancillary to medical science. In the course of his evidence he said—

It would be time-consuming in the extreme for a doctor to sit down and explain the details; and here we find that dietitians are normally important.

The Commission quite appreciates that dietitians could be of great assistance to the profession, relieving as they would particularly general practitioners of much detailed work. The Commission well imagines that as the years go by the work of dietitians could become more and more important to the community at large.

Although it must be recognised that every medical practitioner should be competent to give sound dietetic advice, it can be said that his professional task would be assisted greatly by the availability of properly trained dietitians. The Commission, of course, appreciates that any services which could be rendered to the community by consultant dietitians could also be rendered to the community by the general medical practitioner as well as by specialists.

However, it must not be assumed that by saying this that the Commission necessarily believes that people who set themselves up as dietitians in the manner in which certain witnesses have done are necessarily to be commended to the public as people who should by law be permitted to practise or given any franchise in this territory. Quite apart from the persons who practise this art and who could be said to be seeking some legislative protection, and also whom Parliament had in mind when it inserted the proviso to Section 19 of the Medical Act, there is a class of dietitians who are employed by hospitals and on research work. That class of dietitian was not really the subject of inquiry by the Commission but the Commission did hear evidence from the Chief Dietitian of the Royal Perth Hospital. The Commission did this, however, merely to obtain information on the qualifications and the practice of the class of persons of which the Chief Dietitian was one. Also, the Commission was interested in legislation on this subject which has been in force in Victoria for a great number of years.

The Commission recognises, however, that the services of the dietitians employed by large hospitals are not generally available to the public and although, as stated above, the art could be within the scope of medical practitioners, it is felt that the public would receive benefit from having available to it consultant dietitians in private practice; and it would seem that at the moment the public

in this State does not receive the benefit of any such service from persons holding qualifications which would probably be requisite for registration under the Victorian Dietitians Act.

9.—PUBLIC DEMAND AND NEED FOR SERVICES OF NATURAL THERAPISTS.

Again, as in the previous chapter, it is proposed to divide the various practitioners who might be said to come under the phrase of natural therapists into classes, and again, it is proposed to divide them into classes which are most convenient for a proper consideration of this question. In this case the classes are—

- (a) chiropractors;
- (b) dietitians;
- (c) osteopaths and naturopaths (to extent that they practise beyond the realm of dietetics.)

Before dealing with the classes seriatim, a few general comments may be useful. Evidence was given before the Commission that there is something in the order of 700 legally qualified medical practitioners registered in Western Australia, but the evidence was a little vague on just how many of these practitioners can be said to be in private practice. However, it would seem from the evidence that the number is something in excess of 400. It is impossible for the Commission to say just how many natural therapists there are, as there is no method of ascertaining this, short of going out into the highways and byways to seek them out and to list them, but the Commission would be very surprised to learn that the number in the entire State is much more than 30.

Evidence would suggest that 400 or more medical practitioners are fully and busily engaged. The natural therapists who gave evidence suggested that they also were fully and busily engaged, but it is doubtful whether this is true in every case. There was no suggestion in any of the evidence that any of these practitioners saw patients outside of their rooms. Consequently there may be some doubts as to whether all the natural therapists are at all times fully engaged in their profession. However, if we accept that they are fully occupied in the practice of their profession or art, then it is obvious that the natural therapists are attending to only a very minute percentage of the residents of the State who daily require medical attention.

Furthermore, it was the evidence of practically all the natural therapists that 85 per cent or thereabouts of their patients had already consulted a medical practitioner and, in many cases, more than one medical practitioner.

It seems, therefore, that it is reasonable to infer that the public demand on the services of the natural therapist is not very great and in most cases those services are availed of only when orthodox medicine has not produced results to the satisfaction of the patient. In saying this it must not be assumed that the Commission believes that

orthodox medicine has necessarily failed, but it is safe to assume that the patient has not been satisfied that orthodox medicine has done all that it is humanly possible to do or, in the alternative, it is possible that the patient appreciates that he is beyond the aid of orthodox medicine or may be beyond all aid and it is a case of clutching at any straw. This, of course, is quite understandable in the case of a person who is suffering from some chronic complaint, even though it may be a neurotic complaint.

Whether this establishes that there is a need for natural therapists or not is difficult to say. However, it does show, to some extent, that a certain percentage of the public does patronise these practitioners and there was definite evidence from quite a number of people (some of whom gave evidence on oath and some of whom wrote to the Commission offering to give evidence on oath but were not called) that they believed (and again, we emphasise that it was the belief of the patient and not necessarily the belief of the Commission) that they had received satisfactory treatment from natural therapists which had been denied them or had not been available from orthodox medical practitioners. It must not be assumed, however, that it necessarily follows that, in these cases, the natural therapist succeeded where the orthodox medical practitioner had not had success. In some cases there was reason to suspect that the patient gave up the race before the medical practitioner had an opportunity of completing his treatment. In other cases there may be reason to suspect that the real ailment was a neurotic condition and that, because the patient developed a faith in the natural therapist, he succeeded where his medical brother had not triumphed; purely because for some reason or other the patient had not developed that self-same faith in the medical practitioner.

Having made those observations it is now pertinent to turn particularly to each of the three classes enumerated above. Dealing with each one seriatim:—

(i) Chiropractors.

There was considerable evidence that a large number of the public does avail itself of the services of chiropractors for spinal injuries and complaints; and it seemed reasonably clear that, in the main, the public received satisfactory results from such services. It is significant that the Medical Board has never seen fit to prosecute a chiropractor who purely practises the art of chiropractic. It may be said that this is so because of the provisions of the proviso to section 19 of the Medical Act. But, in view of the Commission, that is not necessarily the correct answer.

Evidence was given by the president of the Medical Board, and also by the Commissioner of Public Health, that prosecutions are only launched when complaints are received by the Board. The Medical Board files produced to the Commission

did not reveal a single complaint against a chiropractor in respect of chiropractic service or advice. There was evidence on one of the Board's files of a complaint against one chiropractor; and the complaint was made by a legally qualified medical practitioner. But it referred to treatment beyond the normal scope of chiropractic. It is noteworthy, however, that the Board does not appear to have followed the matter up.

(ii) Dietitians.

The evidence on this aspect is not very satisfactory and does not suggest that the public at large is very much aware of the value of dietetic treatment and advice. The view of the Commission on the evidence given to it is that the person who practises as a dietitian—and it must be added he does not purely confine himself to this practice—is not consulted by a patient solely for obtaining dietetic advice or service; but it is a fair inference that the persons who repair to their rooms go there for general medical advice or treatment. In many cases, it is apparent—notwithstanding the original intention of the patient—that the practitioner confines himself to matters of diet, and gives only dietetic advice and service.

Consequently the public is receiving dietetic advice and services without really seeking it. Maybe in years to come—with greater publicity being given to the value of dietetics—it is possible that the public may have a demand for the service of dietitians strictly as such. It is possible that the public now has such a demand, but the Commission could not find on the evidence given before it that there was definite proof to that effect. Nevertheless, the Commission does not reject the desirability of properly qualified advice in this regard, and will return to this subject later in the report.

(iii) Osteopaths and Naturopaths (to the extent that they practise beyond the Realms of Dietetics.)

Bearing in mind the general statistics given at the commencement of this chapter, there is evidence that the public does avail itself of the service of osteopaths and naturopaths.

10.—DANGERS TO PUBLIC HEALTH.

The Commission has at all times been conscious of the fact that the major consideration to be given to the matters referred to it is the one of possible danger to the public at large. If there were no such danger then the Commission could not possibly recommend to Your Excellency that legislation should be introduced or permitted to remain prohibiting the activities of any class of natural therapists. In consequence, the Commission regards this aspect of the matter as the all-important question to be

determined. Again, it is proposed to deal with each of the practitioners separately and, on this occasion, the divisions into classes used in the previous chapter will again be used in this chapter. To particularise:—

(a) Chiropractors.

On the evidence given to the Commission it would appear that harm, likely to be suffered by the patients from the activities of chiropractors, is comparatively slight. However, it must be observed (as will appear later in this report) that there are two classes of chiropractors practising in Western Australia.

In this particular chapter the Commission is only dealing with the reasonably qualified chiropractors and not with persons (who may have little or no training) who assert that they are qualified to practise the art of chiropractic. In the case of the reasonably well-trained chiropractor (it should be noted at this point that only in the U.S.A. and in the Dominion of Canada does it appear that there are any colleges or institutions competent to give anything approaching adequate training) his basic training alerts him to the possible shortcomings of his art.

On the evidence given before the Commission it would appear that the possible dangers are twofold; namely, (1) failure to recognise such diseases as cancer or tuberculosis of the spine, and (2) the possibility that the treatment only produces a short-term improvement, and in the long term is really harmful to the patient.

Dealing with the first danger it would seem that the basic training received at recognised colleges in the U.S.A. and Canada would limit to a large extent the possibility of the chiropractor not recognising tuberculosis or cancer of the spine. Furthermore, this danger is minimised by the fact that about 85 per cent. of the patients have already consulted a medical practitioner, and it is reasonable therefore to assume that the existence of such a disease would have been diagnosed by the medical practitioner. In such cases very few persons would then contemplate going to a chiropractor. Of course, it must be remembered that if legislation is introduced to legalise chiropractors and license them, the percentage of people who consult chiropractors without first consulting medical practitioners is likely to increase, and consequently any danger in this regard may proportionately increase. Nevertheless it is noteworthy that a leading orthopaedic surgeon who has specialised in this field for more than 25 years told the Commission that he had heard of two cases only in this State where chiropractors had erred in this regard. He went on to say that the failure to make the correct diagnosis only hastened the end which was, in any event, inevitable.

On the second aspect it is very difficult for the Commission to form any definite opinion. It rather feels that in the case of many disorders of the spine there is not a great deal that any practitioner (whether he be a medical practitioner or any other person) can achieve beyond manipulation, application of heat, and massage from time to time. Consequently, it may be that too much should not be made of this point.

(b) Dietitians.

It was the evidence of very experienced and fully qualified medical practitioners that no great harm could occur to the public at large through the activities of dietitians keeping strictly to dietetics, whether or not they are qualified, and the Commission well believes this to be so. However, the real danger appears to lie in the possible ignorance of the dietitian of anatomy and physiology. It is distinctly possible that a patient, suffering from some stomach ailment, could visit a dietitian and the dietitian could prescribe dietetic treatment which in itself would not accentuate or cause any deterioration in that condition.

However, the stomach condition could be some form of cancer and the delay in receiving proper medical treatment would, no doubt, be to the great detriment of the patient and, in some instances, might even prove fatal. That, of course, is only one example, and there no doubt could be others; but that in itself is a real danger so far as the public health is concerned. This problem will be approached from another angle later in this report and consequently the Commission proposes to leave this aspect at this stage.

(c) Osteopaths and Naturopaths (to the extent to which they Practise beyond the Realms of Dietetics).

The Commission heard evidence from the President of the Medical Board on this aspect, and has little doubt that there is some danger to public health from the activities of naturopaths to the extent that they practise in general medicine. Many are not properly trained and, in fact, evidence discloses that in most instances their knowledge is gained from reading medical textbooks, some of which are written by recognised authorities and others of which are written by persons whose authority can be said to be open to considerable doubt. The great difficulty is these practitioners reject basically the approaches of medical science and some are inclined (notwithstanding their protestations to the contrary) to be contemptuous of medical men to some extent, at least.

The Commission cannot bring itself to accept the theories of these people as against the years of research undertaken and performed by men and women throughout the

world of the highest scientific qualifications. It would be quite ridiculous to say that the Commission should disregard the opinions and evidence of men who have received their training at some of the greatest universities in the world and accept in its place the evidence of men whose preparation for their profession does not appear to be adequate.

In approaching this aspect of its inquiry the Commission has confined itself to the matters definitely referred to it and our remarks must not be in any way construed as referring to homeopathic medicine. The activities of homeopaths are not within the terms of reference of the Commission but nevertheless some evidence on this subject was tendered by one witness. From that evidence it would appear that in England homeopathic medicine is receiving particular attention and has been embraced by well-known leaders in the medical profession. It could well be that the development of the homeopathic principles might provide the answer to the problems which have arisen with naturopaths as it could become a branch of medicine practised by men and women who have themselves qualified as medical practitioners. However, the Commission did not exhaustively examine this subject, as being beyond its scope. Nevertheless it feels that it should mention it and would recommend to Your Excellency that perhaps inquiries could be made by the Public Health Department into the activities of the Royal Homeopathic College in London for the purpose of determining whether or not similar studies in Western Australia should be encouraged.

The Commission feels from the evidence heard by it that all the methods practised by naturopaths in Western Australia could not be said to be harmless. The President of the Medical Board of Western Australia (and he was the only witness to express this view) when pressed to give his own personal opinion, postulated the view (*inter alia*) that the activities of naturopaths should be closed down.

Except to the extent they may practise competently dietetics and chiropractic the Commission is of the opinion that some naturopaths are a potential danger to the public health. What the Commission has in mind as a proper function of a dietitian will be dealt with later in this report.

Turning to osteopaths, it might be said that the Commission is disregarding the very impressive evidence tendered relating to the recognition given to osteopaths, at least in the United States of America. It is not for the Commission to make adverse comments on the legislation passed by what is believed to be over 50 of the 55 States of the United States and provinces of Canada. The Commission did not have before it a single witness who had obtained his osteopathic training in the United States of America and consequently could not evaluate the situation properly.

There was some evidence to suggest in the United States today there is very little distinction between the principles and prac-

tice of an osteopath and those of a medical practitioner. As indicated earlier, however, through lack of sufficient satisfactory evidence, the Commission prefers to make no finding concerning osteopaths.

11.—FACILITIES FOR TRAINING OF NATURAL THERAPISTS.

The Commission had evidence as to the existence or otherwise of training colleges and institutions both inside and outside of Australia. The evidence clearly disclosed that there are no training facilities at all for any of the practitioners in Western Australia, but there appear to be some colleges attempting some form of training, in osteopathy at least, in Victoria. However, on the evidence given to the Commission, it would not be prepared to say that these training facilities in Victoria are in any way adequate or satisfactory. As the evidence given before the Commission on this aspect was not completely satisfactory, the Commission prefers to comment no further on this matter.

In the United States of America and in Canada there seems little doubt that there are quite a number of legally recognised and well-established colleges training osteopaths and chiropractors. However, the cost to students attending at these colleges is quite great and the ability of the average person to afford the expense would depend largely on his capacity to obtain part-time employment whilst attending college. There was some evidence to suggest that in the United States of America it is necessary to obtain a Government permit to enable the student from outside the United States to engage in employment whilst undertaking his course of study. It was suggested by certain witnesses that little difficulty would be experienced by any student in obtaining a permit, but nevertheless the legal bar appears to exist. In any event, it is difficult for the Commission to form a satisfactory opinion as to the adequacy of most of these training institutions. It would only be possible to present any reliable expression of opinion on this point if some properly qualified person were able to visit America and make an on-the-spot examination of the colleges and the type of tuition. However, the Commission should mention that legislation has been passed in parts of America recognising certain institutions as having adequate training standards so far as chiropractors and osteopaths are concerned. Furthermore, there was a Royal Commission in British Columbia a number of years ago, presided over by a Supreme Court Judge, which listed certain institutions, as being in the opinion of the Commission, satisfactory training centres for chiropractors.

Some evidence was given as to osteopathic colleges and chiropractic colleges in the United Kingdom, but the evidence was very much of a nebulous nature and the Commission would prefer to offer no comment on their adequacy or otherwise.

12.—THE DESIRABILITY TO LICENSE NATURAL THERAPISTS.

In approaching this problem it must be stressed that in this chapter the Commission is expressing opinions unfettered by consideration of existing legislation. In other words, it is approaching the problem in a somewhat academic manner as if there were no legislation at present on the statute books which produces its own particular problems. To amplify, the Commission is expressing its view on the basis of what would have been desirable if there were not an existing state of affairs produced by that existing legislation. In this chapter we will deal with the various types of practitioners in the following categories, namely, (a) chiropractors, (b) osteopaths, and (c) naturopaths.

Taking each class separately, the Commission would comment as follows:—

(a) Chiropractors.

One difficulty relative to licensing chiropractors is the apparent lack of training facilities within the Commonwealth of Australia.

There was a suggestion that training of chiropractors could be incorporated in some form in the present medical course at the University of Western Australia. It is however within the knowledge of the Commission that the medical faculty could not handle at the present time any additional students. The possibility of suitable training facilities being provided at the Perth Technical College should be explored.

Quite apart from the question of training students the Commission concludes that—

- (i) there is a demand for the services of chiropractors;
- (ii) chiropractors serve a useful purpose;
- (iii) consequently, for the protection of the public, they should be licensed.

(b) Osteopaths.

The remarks relating to the lack of training facilities made in reference to chiropractors apply equally to osteopaths.

It may be said that to some extent osteopaths also cover the field of dietetics, and consequently, the remarks made in regard to dietitians, when dealing with naturopaths, will apply equally to this class of practitioner.

Nevertheless, the reservation (through lack of evidence) relative to osteopaths has been made already.

(c) Naturopaths.

There does not appear to be any evidence of any tangible nature to support any suggestion that in any part of the world there are properly recognised colleges for training natural healers. In fact, the very divergence in their approaches to their art would suggest to the Commission that it would be extremely difficult to set up a college which would give adequate training.

At this stage it may be pertinent to deal to some extent with the different methods adopted by naturopaths in diagnosis alone. Some of them believe in iridiagnosis, and they define iridiagnosis as a method of diagnosis of practically all diseases and injuries by an examination of the iris of the eye. The scientific soundness of this claim is highly disputed by orthodox medical practitioners. The only work of any note produced to the Commission on this subject was written by an American who apparently has little or no academic qualifications for his task.

It is admitted by medical practitioners that an examination of the eye, and particularly the fundus, can assist in diagnosis, but those naturopaths who use iridiagnosis emphatically reject the suggestion that they examine the fundus or any parts of the eye other than the iris. The Commission has some considerable doubts on the credibility of the evidence given by the naturopaths on this point and is rather inclined to the view that the practitioners of the art do, in fact, examine the whole eye and not merely the iris. Nevertheless the practitioners in question maintain their attitude that they utilise only the iris to assist in diagnosis and if they receive adverse comment by reason of that, they have only themselves to blame.

Other naturopaths examine the case history to aid diagnosis and to this extent they appear to follow, very largely, the practices of qualified medical practitioners without the benefit of the training and knowledge of those practitioners. If persons using this method of diagnosis were to be properly trained, it would seem necessary that they should attend a recognised medical school and this they reject.

Another practitioner stated that he used a pendulum for diagnosis and with the aid of the pendulum, concentrated on all the possible things that might be the cause of the complaint and then, by some method known only to himself, suddenly hit upon the complaint. The Commission was not able satisfactorily to test the value of this evidence. It should be mentioned that the witness in question offered to hand to the Commission three text books which he claimed were written by highly qualified professors of medicine at German Universities. As the text books were written in German they were of no value to the Commission.

The Commission contents itself by saying that diagnosis by means of a pendulum and concentration, as described, has not necessarily been established.

Those are only three of the methods of diagnosis which were detailed to the Commission and there are other methods. It is sufficient, for the purpose of the Commission, to say that, in its opinion, the establishment of proper training facilities for such a wide variety of approaches and concepts would be extremely difficult.

Quite apart from the question of training, the Commission is not satisfied that the persons who practise these professions are

to be encouraged, and again, the Commission cannot help but feel that it might be recommending something which ultimately would become a sub-standard medical profession.

Those remarks must not necessarily be applied to the practice of dietetics. Already we have dealt in this report on the assistance that dietitians can be, and have also mentioned the fact that the Victorian Parliament has seen fit to pass legislation providing for the licensing of dietitians. The Commission will return to this subject later, but on the basis on which it is approaching the whole problem in this chapter, it does suggest that there is a case for registered dietitians and it does appear that there should be no difficulties in training dietitians in this State.

13.—PROBLEMS CREATED BY EXISTING LEGISLATION.

In the previous chapter, the Commission approached the matter in a somewhat academic manner, as if an idealistic situation existed in this State through the complete absence of any legislation dealing with any of the practitioners.

Because of reference to chiropractors, dietitians and osteopaths in the Medical Act and the Physiotherapists Act, certain practitioners may have been encouraged to come to this State, or alternatively, residents of this State may have been encouraged to set themselves up in practice in the mistaken belief that the legislation of Western Australia permits them to follow or practise their art in this State.

Knowing that, the Commission realises that if it were to recommend to Your Excellency that the existing legislation, insofar as it relates to those practitioners, should be repealed (and that the suggestion of one witness for their prohibition should be accepted) that it should make a very clear finding that the activities of the persons concerned are dangerous and harmful. Consequently the Commission now proposes to turn its attention to that particular problem, and it will again deal with the classes of practitioners in different categories. On this occasion four categories will be dealt with as follows:—

- (a) Chiropractors.
- (b) Osteopaths—to the extent that they do not practise dietetics.
- (c) Naturopaths—to the extent that they do not practise dietetics.
- (d) Dietitians.

Dealing with each of the categories separately:—

(a) Chiropractors.

So far as chiropractors are concerned there does not appear to be any tangible evidence which would entitle the Commission to say that these practitioners have acted to the detriment of the public interest at large and, consequently, the Commission would be guilty of a gross dereliction of its duty if it were to suggest that a case had been made

out to prohibit the activities of these practitioners. Consequently the Commission feels that your Parliament should approach this matter with a great degree of responsibility and should carefully examine the desirability or otherwise of introducing some form of legislation to clear up the doubts which exist as to the legal privileges and disabilities of these practitioners.

It is also pertinent to point out that whilst the situation remains as it is there is reason to believe that people having no qualifications at all—who could be charlatans—could call themselves chiropractors, and so long as they gave only chiropractic advice or service to persons requiring chiropractic advice or service, they may be protected by the law.

For four reasons, namely, (i) the lack of evidence of dangerous or harmful activities, (ii) the possibility of charlatans calling themselves chiropractors, (iii) the value of the service itself and (iv) the existing proviso to Section 19 of the Medical Act, the Commission feels that there is a case for legislation in relation to chiropractors, and it will give its specific recommendations in a later part of this report.

- (b) Osteopaths (to the extent that they do not Practise Dietetics).

In the opinion of the Commission, the one reference to osteopaths in the Physiotherapists Act does not produce the same problems as the reference to chiropractors and dietitians in the Medical Act. It was not suggested by any witness before the Commission that the provisions of Section 12 of the Physiotherapists Act had given rise to the belief that osteopaths were legally recognised. In the view of the Commission the osteopaths appear to have overlooked what little legal recognition may be gained from perhaps a narrow construction of that section. Furthermore, there are not many osteopaths (strictly coming within the term) practising in this State, and possibly there are only two. Furthermore the public at large does not seem to have a very great knowledge of the benefit or otherwise to be gained from osteopaths in the treatment of spinal complaints and has made much more avail of the services of chiropractors.

Consequently the Commission does not feel that by reason of a misunderstanding of existing legislation alone, there is any case to be made out for the osteopaths. It must be understood that in dealing with osteopaths in this sub-paragraph the Commission is not at all turning its attention to the problems arising in regard to the activities of osteopaths relative to dietetics. That will be dealt with in sub-paragraph (d) of this chapter.

- (c) Naturopaths (to the extent that they do not Practise Dietetics).

No problems arise out of existing legislation in regard to these practitioners except as dietitians. Parliament has never acknowledged their existence. As a result on this aspect it is not necessary for the Commission to make any further comment.

(d) Dietitians.

The position in relation to dietitians, so far as existing legislation is concerned, is very similar to that of chiropractors, and consequently the comments contained in subparagraph (a) of this chapter in the main apply also to dietitians. The Commission does feel that Your Excellency's Government should give some careful thought to the desirability of introducing some form of legislation relative to these practitioners. However, by reason of the existence of dietitians in the community who do not claim to be natural therapists, the problem differs from that of chiropractors. This distinction and the actual recommendations of the Commission in this respect will appear later in this report.

14.—LICENSING OF CHIROPRACTORS.

As has been indicated in the previous chapter, the Commission feels that there is a need for legislation relative to chiropractors. It is true that the Commissioner of Public Health gave evidence supporting the preservation of the status quo and stated that the Medical Board of Western Australia could be relied upon to exercise its discretion in a proper manner.

The Commission does not doubt this for one moment, but it cannot recommend that Parliament should pass laws which, in effect, may be said to prohibit the practice of certain unauthorised persons and leave it to an administrative board to determine in what cases the law is to be enforced and in what cases the law is to be permitted to be flouted. If Parliament intends to give this discretion to the Medical Board, it should say so in direct terms. The Commissioner of Public Health supported his attitude by drawing certain analogies to matters with which he was charged under the Health Act. He went on to say that it would be ridiculous for him to prosecute for every technical breach. There is, however, a wide difference between using a little discretion in not enforcing the law stringently to the direct opposite of ignoring definite provisions of an Act of Parliament and enforcing those provisions on rare occasions just because a complaint is received from some person in the community who feels that the particular practitioner has not given good service.

An examination of the files of the Medical Board (produced) discloses that it is not correct to say that all the complaints could be justified on the grounds of bad service.

Consequently, the Commission feels that the existing provisions of Section 19 of the Medical Act are not satisfactory. The Commission gave very careful thought to various alternative proposals to amplify and improve the existing provisions of Section 19, and in each instance discovered there were weaknesses and, no doubt, anomalies would arise.

The major difficulty which faces the Commission is the possibility, that under the law, as it now stands, it is possible for a charlatan to call himself a chiropractor and possibly escape prosecution.

The Commission also gave consideration to the possibility of establishing a State register merely to give information to the public as to which chiropractors could be said to be reasonably well qualified, and again rejected this because the unregistered and unqualified chiropractor would not necessarily be prohibited.

Consequently the Commission feels that the only satisfactory way of clarifying the existing position is to introduce some form of licensing. In suggesting this, the Commission is conscious of the fact that there are at present no adequate training facilities in Australia.

In broad principles the Commission recommends that legislation should be introduced along the following lines:—

- (i) Chiropractic should be defined, and it is suggested that the existing definition in the Physiotherapists Act should be utilised as a base, but it may be desirable to add some additional words to enable chiropractors to use heat processes as preparation for manipulation and also to use x-ray for diagnostic purposes.
- (ii) The legislation should provide for the creation of a board. The personnel to sit on this board presented the Commission with considerable difficulty. The Commission suggests that there should be a board of five, two of whom should be medical practitioners (one to be the Commissioner of Public Health or his Deputy) and two to be chiropractors. The fifth member should be an independent person not in any way associated with either profession. The selection of the fifth person (who presumably would be chairman) in itself presents some difficulties inasmuch as such person could largely develop into being an arbitrator and would therefore have to be a man or woman of considerable experience and impartiality. So as to give protection and confidence to all concerned, the Commission suggests that the chairman should be a practising Queen's Counsel.
- (iii) Any person dissatisfied with the refusal of the Board to register him or whose registration may be cancelled or suspended at any time by the Board should have the right of appeal to a Judge of the Supreme Court.
- (iv) Such other provisions should be inserted into the Act as are considered desirable and the Act should contain a provision prohibiting unregistered practitioners from practising.
- (v) It would be necessary to provide the qualifications to be possessed by applicants for registration, particularly in the absence of training colleges within Australia. It is felt by the Commission that some guidance in this regard could be obtained by studying the Victorian Dietitians Act

and it is suggested that the Board should be empowered to register persons who, in its opinion, possessed a satisfactory academic qualification and had a sufficient practical training. The Act should also provide for the registration of persons who have actually practised the profession of chiropractic for a minimum period of five years (the last two years of which shall have been in this State) immediately prior to the proclamation of the Act. Particular care must be taken in the definition of "chiropractic."

All of the practitioners who gave evidence were very emphatic that chiropractors are persons who come within the definition contained in the Physiotherapists Act, and incidentally the same definition is contained in the Chiropractic Act of 1949 of the State of South Australia. That Act, however, is not very conclusive and it is not commended by the Commission, inasmuch as there is no prohibition against unqualified persons.

However, certain chiropractors did admit that occasionally they treat other joints in the body and get a little beyond palpating and adjusting the articulation of the human spinal column. If the definition in the Physiotherapists Act is accepted chiropractors would have to cease these practices.

Although the practitioners were very definite in their views on this it is noteworthy that a lay witness tendered to the Commission a pamphlet entitled "The Truth About Chiropractic." Although it is not definitely stated, the publisher appears to be the National Chiropractic Association Incorporated of the United States of America, and it was quite freely admitted by all professional witnesses that that is one of the two associations in America that has obtained recognition. In that Pamphlet the following paragraphs appear:—

Chiropractic therapeutics is designed to restore normal function of the nerve system by the following methods:—

- (1) Specific adjustive therapy which brings about the correction of anatomical disrelationship and results in the restoration of normal nerve function.
- (2) Clinical nutrition and dietary guidance to restore normal chemical balance in the body and correct disorders resulting from faulty nutrition.
- (3) Physical therapy, using light, water, heat, cold, exercise and various types of precision instruments, as indicated, to restore the normal physiological functions of the body.
- (4) Psychosomatic counselling used to bring about a balanced inter-relationship between the mental, emotional, physiological and mechanical aspects of the body so necessary to normal health.

The practice of chiropractic is as broad as the nervous system, which co-ordinates all organs, glands, and tissues of the body. Therefore chiropractic is applicable to a wide variety of diseases which affect the human body and mind. The rapid acceptance of this science of healing has been due in large measure to the beneficial results achieved in difficult cases.

The Commission is not prepared to agree to legislation of any nature permitting chiropractors to practise in such a manner, and in its view chiropractors should (if registered) keep (subject to the next sentence) within the definition contained in the Physiotherapists Act, with the slight amendments suggested above. However, consideration must be given to the subject of treatment by chiropractors of joints other than spinal joints. The Commission finds itself unable to make any recommendation on this aspect through lack of evidence.

15.—LICENSING OF DIETITIANS.

Already in this report we have dealt at considerable length concerning dietitians, the practices adopted by them, and the different types of dietitians, and also reference has been made to the Victorian Act on this subject. For the same reasons as are given in the previous chapter relative to chiropractors, the Commission feels that the position at present appertaining (by reason of the proviso to Section 19 of the Medical Act) in regard to dietitians should be regularised. It would suggest the introduction of similar legislation for the registration of dietitians, for a similar purpose and with similar limitations. It would also suggest that a board should be set up consisting of two medical practitioners, two dietitians and a Queen's Counsel as chairman. Again it would suggest that the provisions regarding qualifications for registration should be in similar terms.

It is realised by the Commission that if such legislation is passed it is distinctly possible in the more distant future that the Dietitians' Board would register only dietitians having the qualification necessary to obtain appointment at major public hospitals. It should not confine itself merely to those appointees but should also register persons, with the same qualifications, who desire to set up in private practice. It is distinctly possible that the board might not regard as adequate the qualifications of persons similar to those who are at present practising as naturopaths, or who have in the past practised as naturopaths and are temporarily out of practice.

16.—POSSIBLE AMENDMENTS TO EXISTING LEGISLATION.

To consider this problem adequately it is necessary to approach it from two points of view, firstly, if the recommendations of the Commission in the two previous chapters are adopted and, secondly, if they are not adopted.

In the first place, if the recommendations are so adopted the Commission would make the following recommendations, namely:—

- (a) That Section 19 of the Medical Act be amended by deleting the proviso following subsection (3) thereof and inserting in its place a proviso which was clearly expressed to be a proviso to subsections (1), (2) and (3), stating that the section and not the paragraph (being the word at present used in the Act) did not apply to chiropractors and dietitians licensed under the appropriate legislation.

In passing, it might be desirable also to include a provision that, similarly, the section did not apply to licensed physiotherapists for the purpose of clarity.

- (b) It should also be made clear that the exclusion applied only to chiropractors, dietitians and physiotherapists who were practising strictly in accordance with their own particular legislation and that it gave them no protection in the event of their extending their activities beyond the framework of that legislation.
- (c) Amendments to Section 12 of the Physiotherapists Act would be desirable and the exclusion in favour of chiropractors should be altered to provide an exclusion in favour of licensed chiropractors carrying out chiropractic within the meaning of the Chiropractors Act and not giving any other exclusion to chiropractors.

In the event of the Commission's recommendations in the preceding two chapters not being adopted, then different considerations would apply. As has been indicated, the Commission is not very favourable to the idea of endeavouring to improve the existing law without the introduction of legislation to license chiropractors and dietitians.

If, however, Your Excellency's Government or Parliament reject proposals to license chiropractors and dietitians, then (as has been indicated throughout this report), there are some unsatisfactory features of the existing legislation which would require some careful thought and amendment. It is difficult for the Commission to make suggestions in this regard as all the various proposals which have occurred to it have not stood the test of a close scrutiny. Nevertheless, it is felt that Parliament should be asked to give consideration to the proviso to Section 19 with the following objects:—

- (i) Making it quite clear that the proviso applies to all three subsections in Section 19 and not merely to the third subsection.
- (ii) Supplying a definition of what is chiropractic and what are dietetics.
- (iii) In some form or other indicating that the protection was only in

favour of persons who could be said to have satisfactory qualifications to practise their professions.

In these circumstances, too, some slight amendment to Section 12 of the Physiotherapists Act might be needed so as to prevent an unqualified chiropractor claiming the benefits thereof, but this is not as important as the amendment to the Medical Act.

17.—RECOMMENDATIONS AND CONCLUSIONS.

For the sake of clarity and convenience the Commission felt that it should conclude by consolidating in a more concise manner its answers to the various questions submitted to it in its reference, but it finds it difficult to do so by simply answering the questions contained in its commission in the paragraphing used therein. Nevertheless, it is felt that the following answers cover all the questions submitted to the Commission, and in the order in which they appear in the reference.

The Commission reports as follows:—

- (a) The position concerning the operations in Western Australia of chiropractors, osteopaths and naturopaths is explained at great length in the report, but particular reference should be made to Chapters 8, 9 and 10.
- (b) The disabilities suffered by chiropractors, osteopaths and naturopaths, and the justification for regarding same as real disabilities are to be found in Chapters 12 and 13 of this report. The Commission believes that chiropractors and dietitians suffer from disabilities. No finding is made relative to osteopaths. The Commission feels that naturopaths (to the extent they exceed the ambit of chiropractic and dietetics) should not be encouraged and, indeed, should be prohibited.
- (c) Except in relation to dietitians there are no training facilities in Western Australia, and there are no satisfactory training facilities, in the the opinion of the Commission, in Australia, for any of the three classes of practitioners. Any possible satisfactory training facilities exist beyond the Commonwealth of Australia; and just how satisfactory those are it is not possible for the Commission to state definitely. The Commission, however, does not doubt that the training facilities at legally recognised training colleges in the United States for chiropractors are sufficiently adequate for the purpose. In view of what has been stated earlier, the Commission makes no finding on training facilities for osteopaths.
- (d) In relation to the disabilities, if any, suffered by the public at large by reason of the present legal limitations on practice by chiropractors,

osteopaths and naturopaths (to the extent they practise beyond the realms of dietetics) the Commission is of the opinion that these are not as great as might be sometimes thought, but in the case of chiropractors and dietitians there are legal doubts as to their position which could produce disabilities. However, if legislation as recommended is not passed, a percentage of the public will suffer some disability. For full information on this subject reference should be made to Chapters 7, 8, 9, 10, and 13 of this report.

- (e) On the question of the desirability or otherwise of encouraging the practice in Western Australia of chiropractors, osteopaths and naturopaths, the Commission feels that the activities of chiropractors and dietitians should be encouraged; in these two cases it is possible that the practice could be undertaken more extensively by medical practitioners. However, as the Commission feels it is unlikely in the immediate future that medical practitioners will, to any great extent, embrace those fields, encouragement should be given to chiropractors and dietitians. Reference should be made to Chapters 14 and 15 of this report.

In relation to naturopaths, so far as they do not come within the terms "chiropractor" or "dietitian" the Commission feels that no encouragement should be given at all. The reasons for this are contained in Chapters 10 and 12 of this report. As has been stated elsewhere, no recommendation is made relative to osteopaths.

- (f) On the subject of the desirability or otherwise of registering, and the practicability of training chiropractors, osteopaths and naturopaths, or all three classes as natural therapists, the Commission is of the opinion that firstly, it is not desirable to register all three classes as natural therapists, and secondly, that it is not desirable to register naturopaths, except to the extent that they may practise as dietitians, and chiropractors. Similarly, osteopaths should be entitled to apply for registration as dietitians. The Commission is of the opinion (as indicated in Chapters 14 and 15) that chiropractors and dietitians should be registered in accordance with the recommendations in those chapters.
- (g) On the question of the desirability and practicability of training chiropractors, osteopaths and naturopaths in Western Australia or elsewhere in Australia, the Commission is of the opinion that no case has

been made out for the need to train naturopaths (in the widest sense of the term), but it is of the opinion that provision should be made for the training of chiropractors. The Commission feels that if legislation is introduced relating to chiropractors as recommended, investigations should be made regarding setting up training schools. In the case of dietitians the Commission believes that there are already adequate training facilities within Western Australia and elsewhere in Australia for this class of practitioner.

- (h) The final question submitted to the Commission was in relation to the extent to which the methods used by chiropractors, osteopaths and naturopaths are now being used by persons registered under other Acts, and the possibilities of the further development of such methods by persons registered under such other Acts.

The Commission has dealt with this matter at some length in Chapter 8 of this report, and feels there is very little more to be added except to express the hope that time will see the emergence of properly trained chiropractors and dietitians with proper academic qualifications (working in closer co-operation with orthodox medicine) to a greater extent than exists at present.

18.—CONCLUSION.

May we conclude by pointing out that the Commission's task has not been an easy one.

The matters involved in its term of reference, to a large extent, are scientific problems and, with one exception, the members of the Commission were not completely equipped academically or by experience to reach definite conclusions on these matters. The Commission, however, has done its best to appreciate the complexities of the situation and the problems which the existing legislation has produced. It is hoped that the answers given in this report will be of assistance to Your Excellency's Government and also to the Legislature in considering these problems when further legislation may be introduced.

The Commission would like to place on record its sincere appreciation of the excellent and valuable assistance rendered by Colonel J. C. W. O'Connor, who fulfilled the very difficult task of secretary to the Commission with diplomacy, courtesy and efficiency.

As in all inquiries of this nature the success depends to a great extent on the correct reporting of evidence. Once again the Chief *Hansard* Reporter and his staff showed their willingness to help, and carried out their duties in a most efficient manner with the utmost promptness, and thereby greatly facilitated the Commission's task.

The Commission would like to thank the Speaker of the Legislative Assembly for making available to it the Legislative Assembly Chamber for the sittings of the Commission, and also to commend the

officers and staff of Parliament who went out of their way to meet the numerous requests asked of them and to assist in every way possible.

Dated the 23rd day of August, 1961.

(Sgd.) HUGH GUTHRIE,
Chairman.

(Sgd.) J. J. BRADY,
Member.

(Sgd.) GUY HENN,
Member.

(Sgd.) W. A. MANNING,
Member.

(Sgd.) JOHN. T. TONKIN,
Member.



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