

assistance, where necessary. The hon. member has not mentioned specific damage. On Monday I noticed one house that was almost demolished, and I know there were others. The hon. member said that there are five altogether, and I do not doubt it. I know that this was a serious storm. If the hon. member is able to intimate to me any instance of extreme hardship I shall be glad to have a look at it for him.

Motion agreed to.

House adjourned at 10.26 p.m.

Legislative Council

Wednesday, 23 September, 1959

Sydney University Settlement Incorporation Bill (third reading)—Supply Bill (third reading)—Hide and Leather Industries (Repeal) Bill (third reading)—Library (Amendment) Bill (third reading)—Reorganised Church of Jesus Christ of Latter Day Saints Trust Property Bill (third reading)—State Coal Mines (Amendment) Bill (third reading)—Bermagui Harbour Works Bill (third reading)—Sydney Sports Ground and Sydney Cricket Ground Amalgamation (Amendment) Bill (third reading)—Walgett Water Supply Bill—Printing Committee (Fourth Report) —Physiotherapists Registration (Amendment) Bill (second reading)—Companies (Receiver and Manager) Bill—Adjournment (Business of the House).

The PRESIDENT took the chair at 4.28 p.m.

The Prayer was read.

SYDNEY UNIVERSITY SETTLEMENT INCORPORATION BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly with an amendment, on motions by the Hon. R. R. Downing.

SUPPLY BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. R. R. Downing.

HIDE AND LEATHER INDUSTRIES (REPEAL) BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. J. J. Maloney.

LIBRARY (AMENDMENT) BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. J. J. Maloney.

REORGANISED CHURCH OF JESUS CHRIST OF LATTER DAY SAINTS TRUST PROPERTY BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. R. R. Downing.

STATE COAL MINES (AMENDMENT) BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. J. J. Maloney.

BERMAGUI HARBOUR WORKS BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. J. J. Maloney.

SYDNEY SPORTS GROUND AND SYDNEY CRICKET GROUND AMAL- GAMATION (AMENDMENT) BILL

THIRD READING

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. J. J. Maloney.

WALGETT WATER SUPPLY BILL

FIRST READING

Bill received from the Legislative Assembly and, on motion by the Hon. J. J. Maloney, read a first time.

PRINTING COMMITTEE

FOURTH REPORT

The Hon. J. A. WEIR, as Chairman, brought up the Fourth Report from the Printing Committee.

Ordered to be printed.

PHYSIOTHERAPISTS REGISTRATION (AMENDMENT) BILL

SECOND READING

The Hon. J. J. MALONEY (Minister for Labour and Industry) [4.46]: I move:

That this bill be now read a second time.

In explaining the need for this amending legislation I should like to mention, first, that until the Physiotherapists Registration Act was passed in 1945, there had been no legal provision for the registration of physiotherapists. When the Act came into force, a board was appointed, which examined the qualifications of those who had previously been practising physiotherapy and registered those considered to be suitable. Since then, the board has continued to deal with all applications for registration under the Act. It should be noted that the board itself is mainly a registering body and does not concern itself with the training of physiotherapists or their examinations. Such matters come under the control of the Australian Physiotherapy Association and the holders of diplomas issued by that body, after attending specified courses and passing the required examinations, are entitled to registration under the Act.

The experience gained by the board in its administration of the Act since 1945 has enabled it to evaluate the Act's effectiveness and to be in a position to suggest desirable amendments. At the present time, there are more than 800 persons registered as physiotherapists in New South Wales and the annual net increase in the number on the register averages about thirty-five. The board claims that physiotherapy is now receiving wider recognition than ever before and that the general public is becoming increasingly aware of the existence of a registration Act for this profession. As a result of this recognition, it is stated that the Act has been criticised on a number of occasions because of its silence on certain aspects of control over registered physiotherapists.

Some little time ago the board brought under notice the extent to which physiotherapy was being practised by unregistered persons, and the use of ultrasonic therapy apparatus by untrained persons. These two matters were considered by the board to warrant special attention and, in addition, the board brought under notice some other suggested improvements to the Act. The definition of "physiotherapy" contained in the original Act was thought by the board to be inadequate and the bill

contains a new definition which is considered to be more appropriate. In addition, a new definition of "ultrasonic therapy apparatus" has been added.

An inspector has been appointed under the provisions of section 18 of the Act, but the section does not define his powers of inspection, and it is considered that he should have statutory power to enter the premises of a registered physiotherapist. In support of this contention, the board cited a physiotherapist who has a registered address and is listed in the telephone directory but who is, in fact, in England and has been there for some years. An unregistered person conducts an extensive practice at this address under cover of the registered person's name, and although the inspector visited this place, he had no authority to do any more than make general inquiries. The bill will accordingly insert a new subsection giving the inspector power to enter the premises of registered physiotherapists, to ascertain whether any provision of the Act or regulations has been or is being contravened, or whether a physiotherapist is so conducting himself as to be guilty of misconduct in a professional respect. I shall refer later to the enlarged definition of "misconduct in a professional respect" that appears in this bill.

The measure also inserts a new section in the Act to provide for the granting of certificates of provisional registration. This is an enactment that has been found most useful in the operation of other registering boards in the Department of Public Health, and it is considered that it should apply also to the registration of physiotherapists. The board meets once each month, but frequently qualified persons wishing to commence practice or to take up hospital appointments seek registration without delay. This new section will allow the president of the board to grant them provisional registration until the full board meets and can complete the registration.

However, it should be clearly understood that only those persons who are entitled to be registered or who are awaiting the receipt of their diplomas may be granted provisional registration. Therefore, there is no danger whatever of unqualified persons obtaining registration by this means.

Section 24 of the Act sets out the circumstances under which a physiotherapist may have his name removed from the register or his registration suspended for a period, one of which is misconduct in a professional respect. The board is required to hear such charges and, not being a judicial body, finds it difficult at times to decide what should or should not be regarded as misconduct in a professional respect.

The bill accordingly inserts a new subsection in the Act which, without limiting the meaning of the expression "misconduct in a professional respect", sets out various actions which would make a physiotherapist guilty of such misconduct. One would be carrying on the practice of physiotherapy under a name other than his own, except while acting as the duly appointed *locum tenens* of another physiotherapist.

Another new subsection sets out the circumstances in which a person shall be deemed to be a "duly appointed *locum tenens*" and provides safeguards against abuses in the employment of a *locum tenens*. Another action which would be regarded as misconduct in a professional respect would be allowing the use of his name at premises where he or his *locum tenens* is not in regular attendance.

In this connection the board brought under notice a glaring example of an extensive practice being carried on by an unregistered person in the name of her daughter, who retained her New South Wales registration, through her mother as attorney, but who is in England and has been for some years. The daughter is permitting the use of her name, which is prominently displayed and listed in the telephone directory, at premises where she is not in attendance, and registered physiotherapists are being employed by an unregistered person. The board considers there is no doubt that the unregistered person carries out treatment for which she is not adequately trained, and interferes with the treatment given to patients by her employed registered physiotherapists.

Other matters that would amount to misconduct in a professional respect would be allowing an unregistered person to practise physiotherapy at his premises, or advertising

otherwise than in accordance with, or in contravention of the regulations. The bill gives power also to make regulations specifying the manner in and the extent to which a physiotherapist is authorised to advertise. A still further charge of misconduct in a professional respect would apply if a physiotherapist, in carrying on the practice of physiotherapy, were employed by or associated himself with an unregistered person.

Provision has been made, of necessity, to exclude the following from this prohibition: a registered medical practitioner, the Crown, a public hospital or charitable or philanthropic institution, a friendly society, or other approved body or corporation, as it is quite possible that they would employ physiotherapists.

The bill deletes section 26 from the existing Act and inserts an enlarged section in its place. Section 26 previously provided for a penalty not exceeding £50 against an unregistered person "holding himself out" as a registered physiotherapist, but the board has advised that this did not provide sufficient deterrent. Some unregistered persons take care not to use the title "physiotherapist", but they carry out physiotherapy treatment, and the board is aware of several practices being conducted by persons who have failed to gain registration. The new section accordingly prohibits unregistered persons from practising physiotherapy, as well as from holding themselves out as physiotherapists, but special provision has been made to exempt certain classes of persons from this prohibition.

Those exempted are doctors and dentists in the ordinary course of their practice; a nurse acting under instructions from a doctor, dentist or physiotherapist; and persons undergoing the course of study and training in physiotherapy if they are acting under the direct instructions and personal supervision of a doctor, dentist or physiotherapist and the course is conducted by a body recognised by the board for registration purposes. This new section also contains the prohibition against the use of ultrasonic therapy apparatus, by persons other than doctors, dentists, physiotherapists,

nurses acting under instructions and physiotherapy students, unless they are authorised by the board to do so.

Reports furnished by experts in this field, show that ultrasonic, or supersonic as it is also called, refers to sound waves which have a frequency beyond the range at which the human ear is capable of receiving them as sound. Ultra-sound is a special form of sound in a similar way that ultra-violet light is a special form of light, and as ultra-violet light cannot be seen by the human eye, so ultra-sound is inaudible to the human ear.

I am informed that the use of these sound waves for therapeutic purposes represents one of the most recent innovations in physical medicine and that it is essential for anyone using this form of treatment to have an understanding of the basic properties of the waves and their possible effect on biological tissue. These sound waves are said to be useful in treating neuritis, fibrositis and myositis, arthritis and some vascular diseases. However, there are a number of other conditions in which its use could be dangerous to the patient and the waves have destructive properties to living tissue, if wrongly applied.

The board accordingly considers that no unqualified person should be permitted to operate this type of apparatus, unless specially authorised to do so. Exemptions from the prohibition of practice by unregistered persons have been provided for chiropractic, osteopathy and chiropody, and the bill also contains definitions of those practices. In addition, exemptions have been included to cover face or scalp massage for cosmetic purposes, and training of persons engaged in or training for physical culture or any games, sports or athletics, or for the purpose of curing or alleviating injuries received in such activities.

It is considered that this prohibition against practice will curtail the activities of unregistered persons who have been practising physiotherapy, but at the same time, in view of the exemptions provided, it will not interfere with the operations of other persons whose activities closely resemble in some respects those of a physiotherapist.

In addition to prohibiting practice by unregistered persons, the bill prohibits registered physiotherapists from diagnosing or attempting to diagnose any abnormal condition of the human body; prescribing any diet for any person; or prescribing any drug or medicine for internal use by any person.

The reason for this prohibition is that physiotherapy treatment is capable of being confined within certain limits and it is considered that registered physiotherapists should not expect or attempt to practise outside those limits. The diagnosing of abnormal conditions, prescribing of diets and prescribing drugs or medicine for internal use, are matters for the medical profession, and it is considered that the physiotherapist should not attempt them.

This bill is accordingly designed to improve the first Act passed in 1945, to assist the Physiotherapists Registration Board in carrying out its functions and to improve the standard of the physiotherapy profession generally. The amendments and additions have all been recommended by the board itself, which consists of doctors and physiotherapists and they should be welcomed by all bona fide members of that profession. I have much pleasure in commending the bill to the House.

Major the Hon. H. P. FITZSIMONS [5.0]: This small bill, which at first glance appears to be completely innocuous and to have been designed by the department to tidy up a number of untidy provisions in the old legislation, has a much wider implication than the Minister has been able to present to the House. I appreciate his difficulty. The measure is beyond the scope of his normal departmental duties. When he deals with matters concerning his own department he is clear and explicit and presents a lucid argument, but in dealing with this bill he is representing his colleague in another place, the Minister for Health. I fancy that perhaps the Minister for Health himself, who administers an enormously busy department, which has the second highest expenditure of all government departments, has not examined in detail what this bill will do. I venture to suggest that if a government from this

side of the House had introduced this measure, some of the criticism of Labor supporters would have been that its provisions could have been drafted by none other than the British Medical Association.

The Hon. J. J. MALONEY: The hon. member should not spare his criticism. Let it go.

Major the Hon. H. P. FITZSIMONS: I shall criticise the bill. It covers a fairly wide field. In the definition of "physiotherapy" appearing in clause 2, the only words that seem to have been left out and could come at the end of the proclaimed matters, are "in the heaven above or in the earth beneath, or in the water under the earth". In the 1930's the University of Sydney provided a part-time course for masseurs. That term has gradually developed into the highly descriptive and probably more correct title of "physiotherapist". Any hon. member who examines all the ramifications of physiotherapy within the definitions of this bill, and compares them with the provisions of the Medical Practitioners Act will realise that in its own way this bill is more restrictive of lay practitioners than the Medical Practitioners Act ever dared to be in relation to practice by doctors. This is a more complete cover, a more exclusive preserve of practice given to physiotherapists than the parliament of any British community has ever dared to give to medical practitioners.

Hon. members will recall that some years ago a joint committee of the House of Lords and the House of Commons was set up, under the chairmanship of Lord Dawson of Penn, to inquire into all the implications of lay practice in the various fields of treatment and medicine. This joint committee sat for many months. Its report is available, but I speak now from memory of it. It said, among other things, that man is a thinking being, and in the ultimate extremity of health he has a right to choose any form of treatment when all other treatment has been of no use to him. This expert committee that heard all sorts of representations on the restrictions of medical practice and subsidiary practices

simply said that in the final analysis, with the exception of certain diseases, by and large the field should be left open so that those people who call themselves lay practitioners may render such service as the public demands. It is not a service of which I should care to avail myself, but men and women, being endowed by the Almighty with the power to think, have the right to make up their own minds.

The Hon. J. J. MALONEY: The hon. member is supporting quacks.

Major the Hon. H. P. FITZSIMONS: The Minister is away ahead of the world if he wants to make the practice of medicine exclusive to the medical and semi-medical professions. Before the Medical Practitioners Act of 1938 was passed, twenty-six bills were drafted by successive governments over the years, but none got beyond the first reading in either House. When I was in the United Kingdom in 1939 the chairman of the General Medical Council of England could scarcely believe that we had succeeded in passing a Medical Practitioners Act that was so drastic in its ramifications as ours. Compared with the British Act it was a masterpiece of control. I never dared, and no government has ever dared, to say that the lay practitioner shall cease to practise, that the chiropractor, the osteopath, the neuropath, the herbalist, the Chinese herbalist and the one hundred and one others—some of them virtually witch doctors—should not have the right to practise and that people should not be allowed in the ultimate to consult them if they obtained no relief from the orthodox methods. I shall give hon. members a practical example. The bill clearly defines the powers and functions of physiotherapists. When it becomes law it will place no restriction on doctors, dentists or registered nurses acting under the direction of a duly qualified and registered medical practitioner.

The Hon. C. J. CAHILL: What about Mr. Roberts of Newcastle?

Major the Hon. H. P. FITZSIMONS: I do not want to be drawn into a discussion about individual persons except to mention only one world-famous figure. As the clause is drawn Sister Elizabeth

Kenny would never have been allowed to open a clinic or to treat a patient in New South Wales. Her treatment must have been regarded as part and parcel of physiotherapy as defined in clause 2 (a). She became a world figure, the woman of the year in the United States of America and was recognised by Congress. It is a little difficult to recall these matters in the days of inoculation and vaccine but when poliomyelitis was rampant in New South Wales and was a menace to every home, when no prevention but only after-care was available, her treatment set a new standard of thought and provoked the medical profession into a new approach to after-care of the poliomyelitis victim.

I had the privilege of appointing the first committee in this State to examine the Kenny method. Some of the great men of this State gave their assistance. The late Sir Robert Wade, president of the Medical Board of New South Wales, accepted the onerous responsibility—I might say with no marked encouragement from his profession—to cast a careful and considered eye over the first Kenny clinic established in New South Wales at the Royal North Shore Hospital. Dr. Wilson Ingram, a man well known in research and distinguished in peace and war, was kind enough to study the treatment in a most detached and impartial way, neither for nor against the Kenny method. Also, Dr. Fletcher and Dr. Harrison and a number of other men well ahead of their time gave their time to the committee.

The Hon. C. A. F. CAHILL: Does the hon. member say that the bill would preclude someone like Sister Kenny from practising?

Major the Hon. H. P. FITZSIMONS: The bill provides in substituted section 26 (2):

Nothing in this section shall operate to prevent the practice of physiotherapy—

- (a) by a medical practitioner or a dentist registered under the Dentists Act, 1934, as amended by subsequent Acts, in the ordinary course of his practice as a medical practitioner or dentist, as the case may be;
- (b) by a nurse acting under instructions given to him or her by a medical practitioner, dentist registered as aforesaid, or physiotherapist;

Sister Kenny took no instructions. She said that the medical profession was wrong in immobilising sufferers.

The Hon. C. A. F. CAHILL: Under the existing definition of physiotherapy in the principal Act, she would still be excluded. Clause 2 of the 1945 Act gives a definition of physiotherapy.

Major the Hon. H. P. FITZSIMONS: Does it specify that a nurse shall not give treatment except under the direction of a doctor? The only persons who appear to be excluded under the bill—and I put this in a most impartial way—are the chiropractor, osteopath and persons giving massage to players of sport. Any other person who gives treatment included in the definition does so against the provisions of the Act.

The Hon. J. A. WEIR: Why could not she apply under section 21A?

Major the Hon. H. P. FITZSIMONS: Why should she apply?

The Hon. J. A. WEIR: Why not?

Major the Hon. H. P. FITZSIMONS: Why should anyone apply? Why does the Government want to stultify human ingenuity and imagination? The bill mirrors the stereotyped mentality of those who prepare the Government's measures. Always bills seek to restrict, to appoint and to inspect. I hope some hon. member on this side will speak on the legal application of the inspectorial framework within the bill. I hesitate to become involved in the legal matters. I am a layman and was solidly reproved by the Attorney-General recently for venturing a lay opinion on legal matters.

The Hon. J. J. MALONEY: The hon. member is offering a lay opinion on medical matters. Why should he restrict himself?

Major the Hon. H. P. FITZSIMONS: I spent twenty years dealing with medical affairs; I am a medical administrator. The Minister for Labour and Industry is a labour administrator. I do not know whether he has ever worked.

The Hon. W. C. PETERS: The hon. member should learn something about trade unionism before he makes those remarks.

Major the Hon. H. P. FITZSIMONS: We should not become involved on these matters. My remark was facetious.

The Hon. J. J. MALONEY: Is Major the Hon. H. P. FitzSimons opposed to registration?

Major the Hon. H. P. FITZSIMONS: On the contrary. The whole bill is wrong. I could not agree more with the contention that physiotherapy advanced tremendously during the war and has continued to do so. As an adjunct to the medical profession it is most important and useful, but the time has come when we need an entirely new concept of physiotherapy. Entry to the profession should be through the University of Sydney and the University of New South Wales when it has its own teaching hospital. A curriculum should be laid down and a degree, perhaps Bachelor of Physical Science, should be conferred. Already the universities confer degrees of Bachelor of Veterinary Science and Bachelor of Science. After the study of a curriculum laid down by the universities, a degree of physical science could be conferred upon successful students. By this means the physiotherapist's status as a professional person would be established and it would be possible to define clearly by an entirely new charter the responsibilities of the profession. The bill seeks to give protection to the physiotherapist as a person who undertakes some scientific study; also, it aims to protect the public from—to use the word of the Minister for Labour and Industry—quacks.

This bill goes much further than is warranted by what may be called the semi-science of physiotherapy. Simply because a registered physiotherapist has been living for some time overseas and another person has been carrying on his work—it may be for twelve months or five years—certain specific provisions have been incorporated in this measure. It is obvious that if physiotherapists passed through a course of training at either of the two universities that I have mentioned, received a degree and

were then registered and allowed to practise, situations of this kind would not arise. The physiotherapists would then be in the same position as duly qualified and registered medical practitioners and qualified and registered lawyers, and could arrange for other qualified and registered people to take over their practices. Proposed new subsection (1B) of section 24 reads:

For the purposes of this section, no person shall be deemed to be a duly appointed *locum tenens* unless—

- (a) he is appointed in writing by a physiotherapist;
- (b) he is a physiotherapist at the time of taking up his duties; and

I see nothing objectionable in that, but later in the bill we find that a physiotherapist who wishes to go to London, New York, Philadelphia, Vienna or Rome for post-graduate study, is limited in his movements.

The Hon. J. J. MALONEY: The bill only prevents unregistered persons from carrying on an absent physiotherapist's practice.

Major the Hon. H. P. FITZSIMONS: According to the measure no person shall be deemed to be a duly appointed *locum tenens* unless he is employed only during the temporary absence of his employer, and for a period not exceeding six months or for such further period as the board may in any particular case permit. It is well known that leading medical practitioners often go abroad for the purpose of post-graduate study, and that they may stay away for one or two years. Such a person has no difficulty in appointing a *locum tenens* to carry on his practice, providing the *locum tenens* is a duly qualified practitioner.

The point I am trying to make is that the practitioner himself carries the responsibility of appointing someone to discharge his duties efficiently while he is away. That is a commonsense approach to the matter and the restrictions in this measure are unrealistic and unwarranted. Indeed, reading through the bill it would appear that physiotherapy is a vital part of our medical system, but no great harm would be done to the physiotherapists—and certainly not to the Government or Parliament—if this

bill were postponed and the Government appointed a committee quite apart from the board and the department, consisting of a number of leading medical practitioners and departmental officers, to try to devise an efficient method of protecting physiotherapists. I believe that the majority of physiotherapists are women, and I know from personal experience that during the war they did a wonderful job in New Guinea. However, while we all desire to protect them, we should do it in a reasonable way. Proposed new section 26A (1) reads:

A physiotherapist shall not for fee or reward—

- (a) diagnose or attempt to diagnose any abnormal condition of the human body;

That is a reasonable provision, although under the Medical Practitioners Act a lay person is not prevented from setting himself up as a psychologist or psychiatrist as long as he does not pretend to be a duly qualified registered medical practitioner.

The Hon. J. D. KENNY: There would be plenty of work for a psychiatrist in this Chamber.

Major the Hon. H. P. FITZSIMONS: The problems of most hon. members are not those of the mind but rather those of the avoirdupois. Perhaps the Government, by a devious method, is attempting to amend the Medical Practitioners Act by putting clauses in this bill which will have to be read in conjunction with that Act. In other words, is the Government manufacturing a double-barrelled gun so that if the target is not hit with the choke, the other barrel is always available? I am not sure about that matter, but I am worried as to why this measure is more restrictive in relation to lay practitioners than is the Medical Practitioners Act. The treatment of very few diseases is prohibited to lay people under the Medical Practitioners Act, but this measure will prevent a physiotherapist from prescribing any diet for any person. I do not know what that really means. Does it mean that a physiotherapist will not be able to tell a patient to reduce his intake of carbohydrates?

The Hon. J. J. MALONEY: The hon. member is off the track.

Major the Hon. H. P. FITZSIMONS: I do not think so.

The Hon. R. A. KING: A physiotherapist could prescribe All Bran for a patient.

Major the Hon. H. P. FITZSIMONS: I do not know about that. A patient might be eating too much bread and too many potatoes. Could a physiotherapist suggest that he reduce his intake of those foods? Is that an offence under this bill? If it is not, why does it say, "Prescribe any diet for any person"? Is it suggested that physiotherapists are setting up as dietitians?

The implications of the measure are very wide, and though some hon. members might approach them with a certain amount of humour, they will not be treated humorously by those who have to administer the law. The inspectors will have a right of entry wider than that prescribed in the Wild Flowers and Native Plants Protection (Amendment) Bill, which was dealt with in this Chamber a few days ago. In that bill the inspector is not permitted to go into a home or an office, but into an out-house, a panel van or a boat. This measure, unless I am quite wrong, permits an inspector to enter the premises of a physiotherapist, even if his consulting rooms or massage rooms are in his own home.

The Hon. C. A. F. CAHILL: Where would the hon. member expect him to go?

Major the Hon. H. P. FITZSIMONS: Why should he want to go into a person's home without a warrant? What are these malpractices that give an inspector the right of entry to a person's home?

The Hon. J. A. WEIR: These persons can cripple many people.

Major the Hon. H. P. FITZSIMONS: The hon. member refers to osteopaths, chiropractors and all sorts of lay practitioners? The hon. member is calling on the righteous for repentance: years ago I sought to prevent quacks, in the real sense of the word, from treating people.

In the original legislation that dealt with medical practitioners I did not set up any irksome, stupid or trivial irritations.

I find it difficult to believe that the professional behaviour of physiotherapists is worse than, not as good as, or not higher than that of medical practitioners. There is no provision in the Medical Practitioners Act that permits an inspector from the Medical Board of New South Wales to enter the surgery or home of a doctor. That Act contains drastic provisions to deal with professional misconduct by doctors; it prescribes dire penalties for those whose appeals are not successful. I cannot recall any provisions in that legislation, which deals with a major branch of this profession, that give an inspector of the Medical Board of New South Wales the unlimited powers that are conferred by this bill.

This measure has been hastily drawn. Probably it embodies the ambitions and wishes of those who administer physiotherapists. It seems that they wish to make this a close preserve. They wish to make ethical practice the subject of tough law and not professional honour. Those who work in this branch of medicine are most honourable and ethical people. Indeed, most of them are young women of high educational standard who come from good homes. They must be well educated before they can commence this course. I find it almost impossible to believe that these young women require this type of dragooning and policing—this type of Gestapo legislation.

This bill should be withdrawn and recast. The physiotherapist should be left alone until the Government introduces a measure aimed at prescribing a curriculum for the two universities, and to protect the public by granting professional status to the people who practice physiotherapy. In that way the public will be protected from persons who are undoubtedly charlatans.

The Hon. J. A. WEIR [5.36]: Proposed new section 26 (2) (e) (iii) deals with persons "in the course of training people engaged in or training for physical culture or any games, sports or athletics . . ." Over

the years I have frequented a few gymnasiums where many people are prepared for various physical and sporting activities. However, these gymnasiums are also attended by all sorts of people, including jockeys and business men, who seek treatment to relieve stiffness and tiredness. Those gymnasiums, with their expert masseurs, are providing a service, but it seems that this measure will prevent jockeys and business men from being treated there.

I ask the Minister whether this new paragraph will limit the activities of those who give this treatment at their gymnasiums. If so, it would be serious to make those activities unlawful. Many people are engaged in giving massage treatment that has no connection with sporting activities.

In the trade union movement we know that some injured members attend unregistered persons, who are able to afford some relief. For instance, they replace slipped discs. However, we have had medical advice that, though these people can give some temporary relief, no permanent cure is effected; indeed, when a slipped disc is continually replaced in this way the socket grows bigger. We know of some people who have had this treatment over fourteen or fifteen years, and some doctors have advised that it is an unwise practice. It seems that this measure will prevent it.

The Hon. J. J. MALONEY: Subsection (2) of proposed new section 26 begins by saying, "Nothing in this section shall operate to prevent the practice of physiotherapy . . ."

The Hon. J. A. WEIR: But will the business men I have mentioned be allowed to continue to receive this treatment at gymnasiums?

The Hon. J. J. MALONEY: They can do it.

Colonel the Hon. H. J. R. CLAYTON: The paragraph to which the Hon. J. A. Weir has referred contains the words "training for physical culture".

The Hon. J. J. MALONEY: Subsection (2) of proposed new section 26 states that nothing in that section shall operate to prevent the practice of physiotherapy by various

people who are enumerated. Paragraph (e) of that subsection is relevant to this discussion, because it excludes people who are massaging persons in the course of training others engaged in sport.

The Hon. J. A. WEIR: That is how I read it, but the people to whom I refer are not in the course of training for physical culture, they are merely attending for massage to keep in good physical condition, as I am, though someone recently said that I looked as if I was having a hard time in the seventh round. These people are not training for physical culture, they are keeping fit for physical work.

Under proposed section 21A a person who applies to the board for registration is entitled to be registered if he undergoes examination. I should like the Minister to tell the House what examination he must undergo and who sets it. I know of people in the industry in which I am interested who have almost been crippled as the result of having their feet treated by unskilled persons. Many city stores employ people to treat ingrown toenails, corns and so on. If this bill will help to put this practice on a better basis, it will achieve something worth while. I hope that in his reply the Minister will help me by supplying the information that I have sought.

The Hon. J. M. CARTER [5.45]: The bill deals with three classes of people: physiotherapists who work in the hospitals, registered physiotherapists, and unregistered people who practise physiotherapy without having any right to do so. I have the deepest admiration for the physiotherapists who work in our hospitals. They are extremely efficient, most conscientious and follow a high code of ethics. They work all hours. My daughter is a physiotherapist at a hospital, and frequently she has to apply a plaster to an operation case after she is due to go off duty at five o'clock, and sometimes she does not arrive home until half-past eight or nine o'clock at night, and she starts work again at eight o'clock next morning. Obviously, nothing in this bill touches these physiotherapists. Apparently the necessity for the bill would not have arisen if some registered physiotherapists

had not been working outside the normal code of ethics, but without wishing to be offensive I assert that the bill appears to be intended more to enhance the authority of the governing body than to help the public, who want only two things in this field to the exclusion of all else: they want to be sure that they will not be treated by untrained persons and that they will not be charged enormous fees for their treatment.

The chief complaint that has been made to me about the practice of physiotherapy is that a registered physiotherapist can have rooms and be carrying on the practice of physiotherapy and employ untrained persons. He might leave his rooms for days on end and his patients are left in the hands of his untrained employees, but he does not forget to charge them top fees. I cannot see anything in the bill to prevent that practice. Paragraph (c) of proposed new subsection (1A) of section 24 provides that a physiotherapist who allows any person, not being a physiotherapist, to practise physiotherapy at premises used by him or his duly appointed locum tenens for the purpose of carrying on the practice of physiotherapy, shall be guilty of misconduct in a professional respect. I take it that this refers to the employer, but it does not refer to an employee. It protects people from being treated by a person who might not be a physiotherapist but sets himself up as one, but I cannot see that it safeguards the public against a man who employs persons who are not trained. This is a weakness in the bill.

The same subsection provides that a physiotherapist who, for fee, salary, or other reward associates himself with a person, not being a physiotherapist or a medical practitioner, in carrying on the practice of physiotherapy shall be guilty of misconduct. The word "associate" means to combine for a common purpose, and for the life of me I cannot understand why this provision is necessary. A person might want to set up a member of his family as a physiotherapist. He might wish to finance his daughter in practice and be a sleeping partner. He himself would not practise, and he would merely associate with the physiotherapist.

The Hon. J. J. MALONEY: He would not be a registered physiotherapist, and therefore would not be liable to have his registration cancelled.

The Hon. J. M. CARTER: But under the bill he would not be allowed to do that, because the physiotherapist would be "associating" with a person who was not a physiotherapist. Why should not a registered physiotherapist be allowed to practise in association with someone who does not go anywhere near him in his practice? I would go so far as to omit all of paragraph (e) of proposed new subsection (1A), because it already excludes the Crown, public hospitals, charitable and philanthropic institutions, friendly societies and any body approved by the board. It is good that a physiotherapist should be permitted to associate with other persons, in partnership or otherwise. Physiotherapy is more than massaging. Physiotherapists complete a four-year course, including a year at a university and practical work at a hospital. The course includes anatomy. The physiotherapist is a thoroughly trained expert, and I would have no objection to allowing him to do some of the things that are not to be allowed under the bill. This is why I consider that the purpose of the bill is to some extent to increase the authority of the governing body rather than to help the public.

The Hon. R. R. DOWNING: Many physiotherapists are not so efficient as the hon. member suggests.

The Hon. J. M. CARTER: They must be, or they would not be registered.

The Hon. R. R. DOWNING: That is not so. When the Act was passed in 1945 all who were practising were registered.

The Hon. J. M. CARTER: All of those would be married by now.

The Hon. R. R. DOWNING: No. Many of those who were practising in 1945 had never seen the inside of a university, and they are still practising.

The Hon. G. B. RYGATE: Has it not been the practice of some Macquarie Street doctors to set up their daughters as physiotherapists without the necessary training?

The Hon. J. M. CARTER: I do not know, but I see no reason why people should not be permitted to be associated with properly trained physiotherapists. I might want to set my daughter up as a physiotherapist, but if the bill becomes law I shall not be able to do so.

The Hon. G. B. RYGATE: Why should you, if you have not the qualifications?

The Hon. J. M. CARTER: I would not be doing anything towards the practice of physiotherapy; I would not go near her rooms. She is a registered physiotherapist but she must not associate with me. No one could take any other meaning from the bill. The clause should be deleted.

The Hon. L. S. SNIDER [5.51]: I have not had enough time to study the bill but I fear that it contains certain anomalies. Those who qualify as physiotherapists at the University of New South Wales and perhaps other institutions recognised by the competent authority should properly be admitted to the profession. Looking at the definition, I find that the masseur who over a period of years has attended me would be incompetent under the bill to continue his occupation until he qualifies and obtains a diploma or certificate.

The Hon. C. E. BEGG: That might be a good thing.

The Hon. L. S. SNIDER: Perhaps it might be. Precedents are available for the action that I shall suggest. I recall that when Victoria decided to register dentists it acknowledged persons who had been in practice for a period of years. They were recorded by the Dental Board of Victoria and these practitioners found their place in the community and could continue as registered dentists.

The Hon. ASHER JOEL: That was done also under the old apprenticeship system.

The Hon. L. S. SNIDER: That could be so. I do not know that any good purpose would come from prohibiting some persons from using special skills. The clause is so far-reaching that it would wipe out competent people who do no bodily harm to other persons. Masseurs will be compelled by the measure to seek a diploma or

certificate. My masseur qualified in the British Army but despite his years of experience in England he had to undergo a course and examination before the Australian Army accepted him as a physical instructor and masseur. In his late years this man will find himself legally unable to follow his normal occupation and will be denied the right to earn his living.

Colonel the Hon. H. J. R. CLAYTON: By this bill?

The Hon. L. S. SNIDER: As I read it, yes. I might be wrong. He cannot manipulate the soft tissues of the human body.

The Hon. J. J. MALONEY: The hon. member is reading only the definition.

The Hon. L. S. SNIDER: I have to read the definition?

The Hon. J. J. MALONEY: The hon. member should read the bill.

The Hon. L. S. SNIDER: I am reading the bill. I should be glad to hear of any other respects in which the bill should be read in association with the Act. The measure is an amplification of the Act and sets out certain definitions. It prohibits certain persons from remaining in a profession in which they have been engaged for a number of years. I am seeking information on how far the bill goes and I preface my remarks by saying that I have not had time to co-ordinate the bill and the Act. On reasonable representations, people of integrity and known in the community to conduct business as masseurs or physical experts should be registered without the need for examination. The precedent of the Victorian Dental Board is available; also, when accountants in New South Wales were registered as chartered accountants those who had practised accountancy for a number of years were given recognition. It is grossly unfair that persons who are able to exercise certain skills in the interests of the community should find themselves placed in this invidious position.

The Hon. G. B. RYGATE: It is a question of competency.

The Hon. L. S. SNIDER: That means their ability to do certain work, within prescribed limits.

The Hon. G. B. RYGATE: Would the hon. member say that every man who works in a boxing gymnasium would be entitled to registration under the Act?

The Hon. L. S. SNIDER: If he is a person whose bona fides are beyond reproach and who has been engaged in the profession over a number of years, he should be recognised.

The Hon. J. J. MALONEY: He is, in the bill.

The Hon. L. S. SNIDER: I cannot see it. I hope that the Minister will enlighten me. I should be pleased to know that the Government is not biased.

The Hon. ASHER JOEL [5.57]: With only a few reservations I support the bill. Any measure that seeks to raise the standards of the professions or the standards of artisans is worthy of support. With respect to Major the Hon. H. P. FitzSimons, I must confess that I disagree almost entirely with his views. With the best of intentions he has introduced a false note into the debate and hon. members have been sidetracked from the real issue. Subsequent discussion has been concerned not with physiotherapy, but with massage. As one who on a number of occasions has benefited from physiotherapy as distinct from the skill of the masseur, let me assure the House of the vast difference between the two.

Physiotherapy seeks primarily, by a knowledge of manipulative orthopaedic surgery under the direction of a qualified orthopaedist, to correct and remedy those difficulties that may have been congenital or caused by malformation through accident or duress to muscles, tissues, or bone. The result of this is that it becomes necessary, under the skilled medical practitioner's direction—not necessarily a physician's direction—to call upon that most important ancillary of the medical service, the physiotherapist. That person, male or female, has entrusted to him

or her the duty of implementing the prescription of the orthopaedic surgeon. This is often a long, tedious, arduous and hurtful process for the patient. On the other hand, an orthopaedic surgeon will tell one that a massage produces a sense of temporary well-being and that the use of heat induces a feeling of bodily comfort, as distinct from the use of electrical devices which rely upon toning muscles to correct some defect in nature.

I do not believe that this bill will attempt in any way to deprive the tired and jaded business man of his pleasant afternoon at Tattersall's Club or elsewhere. I do believe that it will do much to remove the threat of "quackery" which has reared its head more than ever in modern times because of the activities of the unskilled person who desires to obtain some temporary recognition for his process of human manipulation as a panacea. I am concerned because today one reads in the newspapers of all sorts of people who purport to take off weight by the use of electronic and vibrating devices. Many of these devices are being used by unskilled persons.

Physiotherapy is a most important ancillary of the orthopaedic surgeon and there are not enough skilled physiotherapists in New South Wales. Unless something is done, as in other professions and semi-professions, to raise standards, we shall not attract the best type of people to this work. It has been said that the reaction to this bill will be one of horror by those who have come to rely upon certain persons who claim that in their fingers lies some magical quality that cannot be found in the hands of any other person. That is bunkum and rot. Some of those persons, to whom have been accredited remarkable powers to remedy slipped discs and broken cartilages, have been found upon investigation to do nothing other than exacerbate the damage already done even if affording some temporary relief. After a while the patient finds that he is worse off than ever, and has to go through a longer and more detailed course of treatment at the hands of a qualified orthopaedic surgeon.

At one time I suffered from a serious cartilage disability in my right knee. I sought the advice of one of the persons

The Hon. Asher Joel]

I have been speaking about and found that his treatment consisted of snapping the cartilage still further and sending me on my way after a little functional therapy, hoping that I would imagine myself to be better. I support this bill because I believe that it will assist those who are attempting to provide a better medical service for the community, but I do not regard massage as physiotherapy. Physiotherapy requires years of training, but massage requires very little more than being able to induce a pleasant feeling in the muscles of the human frame.

Colonel the Hon. H. J. R. CLAYTON [6.5]: I shall have little to say about the object of the bill, which appears to me to be quite worth while. However, the measure is obscure in many respects, and listening to the debate I have changed my mind on several occasions about certain provisions. Physiotherapy is defined as being the use by external application to the human body of massage, being the manipulation of the soft tissues of the human body, passive movements, remedial exercises, muscle re-education and the application of electricity, heat, light, sound, water, ultrasonic therapy apparatus and so on. In other words, it seems to mean external application of massage and so on to the human body—for the purpose of curing or alleviating any abnormal condition. Therefore, it is not "physiotherapy", within the meaning of the bill, to apply some apparatus to the human body other than to cure or alleviate abnormal conditions of the body. I ask the Minister whether that reading of the measure is correct. If the methods of application as described in the definition of physiotherapy are applied to something other than an abnormality of the human body, the bill has no application. If we were quite sure of that many of the difficulties that have been raised would be resolved. I do not myself like answering questions, but I am fond of raising them; therefore I draw the Minister's attention to proposed new section 26 (2) which reads:

Nothing in this section shall operate to prevent the practice of physiotherapy

Being such part of the practice of physiotherapy as consists of the use by external application to the human body of massage,

being the manipulation of the soft tissues of the human body, passive movements, remedial exercises, muscle re-education, or heat

by any person in the course of training persons engaged in or training for physical culture or any games, sports or athletics or . . .

Physiotherapy in that sense is not being used to cure or alleviate an abnormal condition of the human body. Subsection (2) of proposed new section 26 states that nothing in this section shall operate to prevent the practice of physiotherapy by persons who are training people engaged in physical culture or any games, sports or athletics. Elsewhere the bill defines physiotherapy as the treatment of abnormal conditions of the human body. The measure is completely confused. All hon. members would agree that athletes are not abnormal, and therefore the application of physiotherapy to them should need no exemption.

It seems that if the Hon. G. B. Rygate wishes to remain in good health by receiving massage treatment, to keep within the law he will need to claim that he is training for the high jump. It seems odd to contend that this bill will not apply to people who are giving massage treatment to business men.

Physiotherapy is defined in clause 2 of the measure as, *inter alia*, the external application to the human body of massage for the purpose of curing or alleviating any abnormal condition. Then the proposed new section that I have mentioned proceeds to say almost the same thing, but it relates to a normal condition. The Hon. L. S. Snider referred to massage treatment, which does not go with his sylph-like figure. It is obvious that the measure presents a difficulty, which I cannot solve. The wording and form of this bill perplex me.

The Hon. C. E. BEGG [6.14]: This bill, like others that seek to confer rights and also to restrict activities, causes serious problems for any draftsman. I have listened with interest to the debate. Since the opening of this session of Parliament this House has been dealing with somewhat formal matters. This is the first occasion on which hon. members have felt free to express their opinions on something con-

tentious. Undoubtedly, the measure contains some contentious matters, from whichever point it is examined.

The definition in the principal Act, which is to be considerably widened, describes physiotherapy as "the use by external application to the human body of manipulation, electricity, heat, light or other proclaimed method for the purpose of curing or alleviating any abnormal condition." Massage is not mentioned.

I know little about physiotherapy, but I understand that it involves some massage. What is to be regarded as physiotherapy, and what is to be regarded as legitimate massage? The Hon. L. S. Snider stated that though he has no abnormal condition, he periodically visits a masseur for massage treatment. The Hon. J. A. Weir mentioned the same matter. Hon. members have pointed out that the definition in the bill is wide enough to prohibit well-known practising masseurs from carrying on their businesses. I should have thought that the intention of the measure was not to prohibit legitimate masseurs.

The Hon. J. J. MALONEY: That is not the intention.

The Hon. C. E. BEGG: The bill should say so in unequivocal terms.

The Hon. J. M. CARTER: I think it definitely should have that intention.

The Hon. C. E. BEGG: The Minister says it has not. If it is the intention, let the bill say so. I should have thought that an appropriate amendment to the definition would put that beyond all doubt. For instance, the definition could say that, "Nothing in this Act is intended to prohibit or prevent the carrying on of any bona fide business of a masseur." I suggest to the Government that, if that is its declared intention, to remove this criticism of the bill it should introduce an amendment along those lines.

The Hon. G. B. RYGATE: If that were done, the activities of masseurs would have to be defined.

The Hon. C. E. BEGG: I am sure that most hon. members know what is the business of a bona fide masseur.

The Hon. G. B. RYGATE: It varies greatly.

The Hon. C. E. BEGG: This difference of opinion illustrates the difficult problem that arises when a government seeks to give rights and restrict the activities of human beings. It has been shown that the measure might cause some unwarranted interference with ordinary human liberties, and that is why it is important to analyse the motives that prompt hon. members from both sides of the Chamber to express views on what this bill seeks to do. Some clarity should be introduced into the measure.

I support the remarks of Major the Hon. H. P. FitzSimons who mentioned the right that this bill will give to an inspector to enter a person's premises. The granting of rights of entry is recurring with alarming regularity, and before long an Englishman's home being his castle will be the exception rather than the rule. This is just another bill that includes the conferring of a power of entry. An inspector will be able to go into the homes of persons, whether they are registered physiotherapists or not, so long as physiotherapy is carried on there. It is wide enough to include any places, for it gives power to an inspector to enter any premises where he suspects physiotherapy is being practised.

The Hon. G. B. RYGATE: If the physiotherapist has a consulting room in the front of his home, what is wrong with that?

The Hon. C. E. BEGG: Many physiotherapists may have private practices at home. This power to enter enables an inspection of the premises of any physiotherapist. An inspector can enter for the purpose of seeing whether the regulations are being contravened or whether the physiotherapist is misconducting himself in any professional respect. It provides for policing of the registered and authorised physiotherapists.

The Hon. G. B. RYGATE: What is wrong with that?

The Hon. C. E. BEGG: I think it is wrong. Members of the police force have no right to enter a person's premises without obtaining a search warrant, which is based on information sworn before a magistrate

and given only after he is satisfied that sufficient evidence has been shown that a person is reasonably suspected, say, of having goods in custody or of having committed some other offence. Members of the police force obtain these warrants to assist them in the detection of serious crimes, but they cannot enter any premises unless they have a search warrant. However, a registered physiotherapist is not to be afforded the same treatment as suspected criminals, for that privilege of no entry without warrant is to be taken away from him by this measure. I can see no necessity for treating physiotherapists less favourably than a possible criminal.

The Hon. R. S. JACKSON: Under the Factories and Shops Act inspectors can go into business premises to see whether any breaches are being committed.

The Hon. C. E. BEGG: Exactly. This type of thing is cropping up all the time, and inspectors are being granted the right of entry ever more frequently. The time must come when a stop is put to this interference with human liberties.

The Hon. R. S. JACKSON: Do not lawyers police the activities of members of their profession?

The Hon. C. E. BEGG: The Attorney-General will correct me if I am wrong, but I understand that there is no right in anyone to enter the offices of a solicitor.

The Hon. R. S. JACKSON: Under the rules of the Incorporated Law Institute a solicitor's office may be entered for various purposes.

The Hon. R. R. DOWNING: It may be entered for the checking of trust accounts.

The Hon. R. S. JACKSON: The hon. member should be more careful when he criticises the bill. Even in his own profession there is a right of entry.

The Hon. C. E. BEGG: That right is very limited, and certainly there is no right to enter anyone's home. A right is conferred only to inspect books of account, and that can be done without any trouble. That is not in any sense in the same category as the right to be conferred by this bill.

The Hon. R. S. JACKSON: The hon. member need not go off the deep end.

The PRESIDENT: Order!

The Hon. C. E. BEGG: I am not going off the deep end; I am drawing attention to the fact that civic liberties are being interfered with, and the question is why physiotherapists are being singled out for this inroad into their personal freedom. I prize my personal freedom. If I were a physiotherapist I should regard it as a gross insult to my integrity if someone said, "I am coming in to look over your premises."

The Hon. G. B. RYGATE: Is it not proper that an inspector should inspect the premises of a physiotherapist to ensure that he changes the sheet after treating each patient? I know for a fact that one patient after another is treated, absolutely nude, and the sheet is not changed.

The Hon. C. E. BEGG: I may be quite wrong, but I do not think inspectors will have the right to do that.

The Hon. G. B. RYGATE: But should not the right be given to them?

The Hon. C. E. BEGG: It is not being given to them by the bill, so it is useless to ask me whether it is correct or not. The right that is to be given is another inroad into the liberties of private persons. I see no reason why the right of entry should be granted. Even a policeman investigating a major crime has no more right than to come to a person's front door, stand on the step and make inquiries. I see no reason why a physiotherapist should have any lesser privilege than another member of the community. Let the inspector come to his front door and make inquiries. The ordinary principle should not be departed from, and I draw attention to the fact that if the bill becomes law it will be departed from. I agree with the hon. members who support the over-all purpose of the bill. Let it not be thought for a moment that I am being captious in pointing to these defects in the measure; they have struck me as irregularities and I hope that the Government will give second thoughts to them.

If that is done, the Legislative Council still performs its proper function.

Debate adjourned, on motion by the Hon. R. R. Downing.

COMPANIES (RECEIVER AND
MANAGER) BILL
FIRST READING

Bill received from the Legislative Assembly and, on motion by the Hon. R. R. Downing, read a first time.

ADJOURNMENT
BUSINESS OF THE HOUSE

The Hon. R. R. DOWNING (Attorney-General, Minister of Justice and Vice-President of the Executive Council) [6.25]: I move:

That this House do now adjourn.

For the information of hon. members, it is intended to deal with the Companies (Receiver and Manager) Bill tomorrow evening and to give it priority over the Physiotherapists Registration (Amendment) Bill. If time permits, it is proposed to revert to the debate on the measure that we have been dealing with this afternoon.

Motion agreed to.

House adjourned at 6.26 p.m.

Legislative Assembly

Wednesday, 23 September, 1959

Questions without Notice—Walgett Water Supply Bill (third reading)—Companies (Receiver and Manager) Bill—The Budget (Third Day's Debate)—Adjournment (Dredging at Evans Head).

Mr. SPEAKER took the chair at 2.30 p.m.

The Prayer was read.

Mr. SPEAKER: Order! As most Ministers have been delayed by urgent public business, I propose to leave the chair for about fifteen minutes. The House will resume upon the ringing of one long bell.

[Mr. Speaker left the chair at 2.32 p.m. The House resumed at 2.45 p.m.]