

KEY ISSUES FOR NSW

This section is designed to briefly outline some of the key issues to emerge from the Conference of relevance to NSW. It also contains some suggestions as to how some of these key ideas could be applied in NSW.

GLOBAL PERSPECTIVE: DEMOCRATISATION AND ADMINISTRATIVE REFORM

The most obvious benefit that each of the Committee's representatives took away from the Conference was a global perspective on anti-corruption issues. It was clear that anti-corruption issues are moving higher up the agenda of international organisations and aid donors, in the context of moves towards democratisation and administrative reform. Increasingly the World Bank and Western aid donors are tying aid to democratic reform and administrative reform, and anti-corruption programs are a central feature of this administrative reform. At the same time, it was emphasised that effective anti-corruption strategies cannot be imposed or developed in isolation from the political and administrative environment in which they are to operate. Indeed, pluralistic political structures, a free press and accountability mechanisms, were put forward as pre-conditions for any effective anti-corruption strategies.

It has occurred to the Committee's representatives that the NSW Parliament may be able to make a contribution to this process. The 1990-91 Annual Report of the NSW Legislative Assembly reveals the large number of overseas delegations from both Commonwealth and non-Commonwealth countries which visit the NSW Parliament each year. Many of these delegations came to the NSW Parliament to study particular aspects of Parliamentary procedure. Others come to more generally observe and study the workings of a Parliament in a pluralistic democracy. Some of these delegations come from either newly democratising countries or countries where there is some pressure for democratic reform. No doubt these visits are extremely valuable. These visits may become increasingly important and increasingly regular throughout the 1990's as democratisation spreads. At the same time there is likely to be a growing interest in administrative reform including anti-corruption strategies.

It may be useful for the Presiding Officers of the NSW Parliament to develop a program for visiting delegations which includes exposure to some of NSW's anti-corruption and administrative reform initiatives. This would include the ICAC, the Ombudsman, the police complaints system, Auditor-General, and Parliamentary

Committees. The Presiding Officers may also be able to take a more proactive role by examining the prospects for a small-scale exchange program for Parliamentary staff between the NSW Parliament and Parliament's of newly democratising nations, particularly in our region.

ORGANISED CRIME AND CORRUPTION

The Committee's representatives at the Conference were extremely impressed by the paper's presented by two speakers from New York, Ron Goldstock and Thomas Thacher. Their papers are reproduced in full as an appendix to this report. These papers very clearly set out the relationship between organised crime and corruption, the areas of the public sector which organised crime seeks to infiltrate and the mechanisms by which public officials are corrupted. This is an area of considerable concern to members of the Committee including Mr Hatton MP, who has raised his concerns at a number of Committee hearings. However, there does not appear to have been any concentrated effort by law enforcement agencies or investigative agencies to target this problem. In NSW the ICAC investigates public sector corruption and the NSW Crime Commission investigates drug crime and organised crime. Yet there has been no thorough analysis of the interaction between organised crime and public sector corruption. The Committee has decided to reproduce the papers of Mr Goldstock and Mr Thacher in this report in order to draw attention to the work that has been done in this area elsewhere and to encourage consideration of how this issue may be addressed in NSW.

Attention is particularly drawn to Mr Thacher's paper in the context of the Report of the Building Industry Royal Commission. The Committee draws attention to the methods outlined in this paper for the prevention of racketeering and infiltration of organised crime into public works programs.

CORRUPTION PREVENTION AND PUBLIC EDUCATION

There was almost universal support at the Conference for the work/strategy of the Hong Kong ICAC, particularly its public education program. There was considerable discussion about the matters to be covered in, and most appropriate methods of, public education, with many of the most practical suggestions coming from the Hong Kong ICAC. However, many delegates expressed concern about the difficulties in maintaining public support for long term public education programs. There was also considerable discussion about the need to market corruption prevention programs and to convince public and private sector managers that corruption prevention was in their best interests. It is clear from Ann Reed's paper that these are issues which the NSW ICAC is well aware of and seeking to tackle.

EVALUATION

Another theme which was discussed by a number of speakers and participants was the need for mechanisms to evaluate the effects of anti-corruption programs. This was raised specifically in relation to industry self-regulation about which there was considerable debate but nothing by way of hard evidence upon which to base an assessment. There was some attention given to the public opinion surveys and complaints statistics of the Hong Kong ICAC as an evaluation mechanism. Again the NSW ICAC is clearly aware of the need for proper evaluation mechanisms. It has conducted a number of public opinions surveys (as outlined in Ann Reed's paper) and is continuing the development of its corporate plan and performance indicators.

STRATEGIC INTELLIGENCE AND IDENTIFICATION OF TRENDS

Ron Goldstock and Thomas Thacher, whose papers are reproduced as an appendix to this report, both emphasised the importance of intelligence in their work against organised crime. They also discussed the need for a proactive approach, for example in the construction industry for authorities to identify companies which have links with organised crime in a pre-qualification assessment stage before tendering. Jim Buckle from the Hong Kong ICAC gave a very interesting paper which summarised the major trends in corruption in Hong Kong and the key forms of corruption facing the Hong Kong ICAC during the next few years. The Committee has recently discussed with the NSW ICAC the role of its strategic intelligence unit. The Committee has sought to encourage the ICAC to develop an overview of corruption in NSW and to identify trends in corruption.

POLICE CORRUPTION: ISSUES NEW AND OLD

Considerable attention continues to be paid to questions of Police corruption. One of the key issues under consideration in many countries is the question of civilian oversight of investigations into Police corruption. It was pleasing to note that, this is an area in which NSW seems to be something of a leader, with an appropriate balance already struck between civilian oversight through the Ombudsman and investigation by Police officers through the Police Internal Affairs Branch. This balance will be further refined as a result of the recent report of the Committee on the Office of the Ombudsman.

A second issue raised in relation to Police corruption was the effect of community policing. This was discussed in the paper presented by Professor Dorothy Bracey in which she argued that community policing with its emphasis upon interaction with the community required a rethinking of anti-corruption strategies, particularly in terms of the receipt of gifts that would have been defined as low-level corruption in recent

years.

The third issue raised in relation to police corruption was the need for a broad view of police corruption which pays due regard to the perversion of the course of justice as a serious instance of police corruption. This point was made very powerfully by Mr G Markham in his paper on his inquiry into the flawed Police investigation into, and conviction of, Winston Silcott.

MONEY LAUNDERING

There were a number of important presentations at the Conference on the subject of money laundering. The major issue to emerge was the importance to law enforcement agencies of identifying "dirty" money at the point at which it is first placed into the legitimate financial system. It was interesting to note the steps which have been taken to combat money laundering in different countries. It was clear that Australia is at the forefront of efforts in this area with the provisions contained in the Cash Transaction Reports Act for financial institutions to report suspect transactions in addition to transactions of over \$10,000. Indeed, there was a considerable body of thought at the Conference that the reporting of suspect transactions was the most important step that could be taken in combating money laundering. The National Crime Authority has recently completed an inquiry into money laundering in Australia, which will lead to further developments in this area.

LONDON APPOINTMENTS

The Committee's representatives travelled to and from Amsterdam via London. On the day after the Conference, Friday 13 March, the opportunity was taken to call on a number of agencies/individuals of relevance to the Committee's work. The NSW Agent-General, the Hon Neil Pickard, and his staff were of considerable assistance in organising these appointments.

Serious Fraud Office

The first of these appointments was a visit to the Serious Fraud Office. The Committee received a briefing from the Director, Mrs Barbara Mills QC, (who has since been appointed Director of Public Prosecutions) and a number of other senior staff of the Office. The Serious Fraud Office was established in 1988 to investigate and prosecute the most serious fraud cases in England, Wales and Northern Ireland, following public concern about the lack of results in combating such crime. The Office handles approximately 60 cases each year, each involving an amount over £2 million. 10% of cases involve fraud against the Government. In July 1991 the Office announced that it was investigating the Bank of Credit and Commerce International (BCCI). The Office has a permanent staff of about 100 including lawyers, accountants and computer experts. Approximately 60 Police officers, from various UK forces, are attached to the Serious Fraud Office as investigators. The Office's powers include a power to require persons and institutions to produce documents - this power when applied to banks, auditors etc. overrides duties of confidentiality to clients.

Of particular interest to the Committee's representatives was the multi-disciplinary team approach taken to investigations by the Serious Fraud Office and the recent reinforcement of the integral role of the Police attachment through the placing of senior police officers on the Office's Board of Management. Also of considerable interest was the extensive use of information technology by the Office. This includes the use of specifically designed software programs to assist with investigations (all relevant documents produced to the Office are computerised for analysis) and the use of graphics to enable complex evidence to be presented in court in a simplified form.

The Committee's representatives returned with a considerable amount of documentary material from the Serious Fraud Office including Annual Reports, legislation and the Roskill Report of 1986 which recommended the establishment of the Office. As with the papers from the Fifth International Anti-Corruption

Conference, the Committee is happy to make this material available from its Secretariat Office.

House of Commons - Register of Members' Interests

Following the conclusion of the briefing of the Serious Fraud Office the delegation proceeded to the Houses of Parliament. The opportunity was taken to receive a detailed briefing on the provisions for registering the pecuniary interests of Members of the House of Commons. Due to the imminent General Election, which had been called a few days before, it was not possible to arrange to meet with relevant members. However, the delegation was fortunate to be able to meet with and receive a detailed briefing from the present Registrar of Members Interests and Clerk to the Select Committee on Members Interests, Mr Roger Sands, and his predecessor, Mr Ian Hastings.

The House of Commons resolved to establish a Register of Members Interest in 1974 and appointed a Select Committee to formulate the scope and purpose of the register, and procedures for the receipt and processing of complaints that a members has failed to properly register pecuniary interests. Mr Sands and Mr Hastings outlined the development of the Register of Members Interests, from the work of the Select Committee on Members Interests (Declaration) in 1969 through to the most recent report of the Select Committee on Members Interests in 1992.

The overall impression gained was that the House of Commons Register is not as well developed or as comprehensive as the NSW Parliament's Registers. However, the procedures for the making of complaints by members of the public that a member had failed to properly register a pecuniary interest is not present under the NSW provisions. Of most interest was a recommendation of the 1969-70 Select Committee on Members Interest (Declaration) for a very succinct Code of Conduct for MPs which was not adopted by the House of Commons because it was seen as too restrictive. The proposed Code of Conduct provided,

"That it is contrary to the usage and derogatory to the dignity of this House that a Member should bring forward by speech or question, or advocate in this House or among his fellow Members any bill, motion, matter or cause for a fee, payment, retainer or reward, direct or indirect, which he has received, is receiving or expects to receive".

Mr Kerr and Mr Nagle thought this Code of Conduct worthy of consideration in relation to the Committee's current inquiry into a Code of Conduct for MPs in NSW.

Mr Sands and Mr Hastings provided the delegation with a number of relevant reports. These include: the report fo the 1969-70 Select Committee; the 1974 report of the

Select Committee on Members Interests, which set out the scope and purpose of the Register; a 1990 report of the Select Committee, into a complaint that an MP had failed to properly register his pecuniary interests; a 1991 report of the Select Committee into the registration of interests for members of select committees; the Register of Members Interests as at 13 January 1992; and the March 1992 Report of the Select Committee, which included a comprehensive review of the provisions of the register and contained recommendations for reform. Like the other material brought back by the delegation, these reports are available for inspection in the office of the Committee Secretariat. They will be very useful in the Committee's inquiry into the pecuniary provisions and Code of Conduct for MPs in NSW and will be analysed in more detail in the Committee's report on that inquiry.

Royal Commission on Criminal Justice

After lunch with Mr Sands and Mr Hastings in the Strangers Dining Room at the Houses of Parliament, the delegation visited the Royal Commission on Criminal Justice, and met with the Secretary and Deputy Secretary to the Commission. The Royal Commission on Criminal Justice was established in 1991 following controversies over miscarriages of justice in the UK to carry out a wide-ranging review of the criminal justice system of England and Wales. The Royal Commission is reviewing investigative procedures, the prosecution process and questions of procedural fairness. The Commission is due to report in 1993. The discussions with the Secretary, Mr James Addisson, and Deputy Secretary, Mr Nigel Osner, were extremely wide-ranging.

Mr Osner had previously been Secretary to the Council for Licensed Conveyancers. Mr Kerr and Mr Nagle therefore took the opportunity to question him at some length about the system of licensed conveyancing in England and Wales. The delegation brought back a large amount of documentary material on this subject, which is also available for inspection in the office of the Committee Secretariat.