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Commonwealth of Australia

HOUSE OF REPRESENTATIVES STANDING
COMMITTEE OF MEMBERS' INTERESTS

Report relating to the
registration requirements

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COMMITTEE OF MEMBERS' INTERESTS

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Clerk to the Committee

Mr L.M. Barlin

- (1) Resigned 10 September 1985
(2) Appointed 10 September 1985

REPORT

1. Under the terms of standing order 28A, a Committee of Members' interests shall be appointed at the commencement of each Parliament -

- (a) to inquire into and report upon the arrangements made for the compilation, maintenance and accessibility of a Register of Members' Interests;
- (b) to consider any proposals made by Members and others as to the form and content of the register;
- (c) to consider any specific complaints made in relation to the registering or declaring of interests;
- (d) to consider what changes to any code of conduct adopted by the House are necessary or desirable;
- (e) to consider what classes of person (if any) other than Members ought to be required to register and declare their interests, and
- (f) to make recommendations upon these and any other matters which are relevant.

In addition, the Committee is required by resolutions adopted by the House on 9 October 1984 a.m. to -

2.

- (a) determine a form for use by Members in providing statements of registrable interests (resolution (1));
- (b) determine which "interests in companies" Members are required to register (paragraph (d) of resolution (2));
- (c) determine the form of the Register of Members' Interests to be maintained by the Registrar (paragraph (b) of resolution (3));
- (d) table a copy of the completed Register of Members' Interests as soon as possible after the commencement of each Parliament, and the commencement of each subsequent calendar year during the life of that Parliament, and also table any notification by a Member of alteration of interests (paragraph (c) of resolution (3)), and
- (e) draw up conditions under which the Register is to be available for inspection (paragraph (d) of resolution (3)).

The terms of standing order 28A and of the resolutions adopted by the House on 9 October 1984 a.m. are attached at Appendices I and II respectively.

2. On 21 March 1985 the Committee reported to the House that with its membership having been appointed only the previous day it had been unable to determine a form in sufficient time to enable Members to comply with the requirement to register their interests within 28 days of having made an oath or affirmation at the commencement of the Parliament. The Committee recommended, and the House agreed, that a further

period of time, namely 28 days from the day of issue of the forms of annual return by the Registrar, be granted within which Members will be required to provide statements of registrable interests.

3. Since that date the Committee has held seven meetings at which it has been endeavouring to determine a form of return. It has failed to do so because of potential difficulties foreseen in the registration requirements and because of inequities arising from those requirements.

4. The Committee believes that it has a responsibility to report these difficulties to the House. It seeks decisions following discussion by the House in relation to these matters before it will be able to determine a form of return and set up a Register of Members' interests. The particular areas of difficulty are dealt with under specific headings.

Why Members and not Senators?

5. An area of common concern to all members of the Committee, and to very many Members of the House who have approached Committee members, is the inequitable and anomalous situation created by the requirement that Members of the House should register their interests while their colleagues in the Senate are not so required. In this respect the Committee notes that on 25 February 1985 the Leader of the National Party of Australia (Mr Sinclair) gave notice of a motion to amend the preamble to the resolutions adopted by the House on 9 October 1984 a.m., the effect of which would be to provide that the registration requirements would not come into effect unless and until the Senate adopted resolutions requiring Senators to meet similar requirements. The Committee notes that this notice of motion has not yet been dealt with by the House.

6. In those Australian States where registration of interests arrangements are in place, the requirement is common to Members of both Houses. Similarly, in the United States of America the requirement is common to both Members of the House of Representatives and the Senate. In the United Kingdom however Members of the House of Commons are required to register their interests although there is no requirement for Members of the House of Lords to do so.

7. The Committee cannot see the justification for differing arrangements between the Australian House of Representatives and the Senate. It could even be said that with the present balance of power situation existing in the Senate the registration of Senators' interests is more important than the registration of those of Members of the House of Representatives. However, it is understood that there are presently no plans for such a requirement to be introduced.

8. Whether Members of the House should be required to provide statements of their interests when their Senate counterparts are not so required is a fundamental question in relation to this issue. The Committee strongly recommends to the House that it reconsider the registration requirements for Members in view of the anomolous situation that presently exists vis-a-vis Senators.

9. The Committee now draws attention to difficulties that have become apparent in relation to the registration requirements contained in the resolutions of the House of 9 October 1984 a.m. Should the House re-affirm its requirement for Members to register their interests, notwithstanding the absence of such a requirement in respect of Senators, the following

matters will need to be addressed before a form of return can be determined by the Committee and a Register of Members' Interests established.

What classes of person other than Members ought to be required to register and declare their interests

10. As stated in paragraph 1, it is a responsibility of the Committee to consider what classes of person (if any) other than Members ought to be required to register and declare their interests. The Committee has had little opportunity up to this time of considering this aspect of its responsibilities but wishes to make some preliminary comments on the matter.

11. The Committee has noted that since July 1984 there has been a requirement in the Public Service for all Secretaries of departments, all staff in what was known as the Second Division (now the Senior Executive Service), as well as officers acting in "Second Division" positions for more than 3 months, and ministerial staff, to provide statements of their interests and, to the extent that they are aware of them, those of their immediate family. The statements by Secretaries are made to their Ministers and by other staff to the head of the department or authority.- This requirement by the Public Service Board recognises the influence which may be exercised by senior officers of the Commonwealth Public Service in the decision making process.

12. There are however significant differences in respect of the availability of these statements and that proposed in respect of Members of the House of Representatives. Statements made to a head of a department will be available to the relevant Minister.

However, the Public Service Board circular issued in relation to the requirements makes it clear that the Government will regard these statements as "in confidence" documents and secretaries to departments should take personal responsibility for seeing that documents in their possession are maintained in a way that protects the privacy of their senior staff. The statements are subject to the operation of the Freedom of Information Act but requests for access by parties (other than the subject of the record) would be refused. An exemption would be claimed under the provisions of section 41 of the Act which concerns documents affecting personal privacy.

13. It is apparent also to the Committee that members of the Parliamentary Press Gallery are rather uniquely placed to exert considerable influence in the decision making process - a matter referred to by the Prime Minister in his statement to the House of Representatives on 22 September 1983. Indeed, it is believed that some media organisations and their Parliamentary Press Gallery representatives would claim to have played a not insignificant part in a number of political events in recent years. In these circumstances, the Committee proposes giving early consideration to requiring, amongst others, members of the Federal Parliamentary Press Gallery to register their interests in a manner similar to that applying to Members of the House. In this context the Committee notes that the United Kingdom Select Committee on Members' Interests, in a report presented to the House of Commons on 21 May 1985, has recommended that those holding permanent passes as lobby journalists, as journalists accredited to the Parliamentary Press Gallery or for parliamentary broadcasting be required to register not only the employment for which they have received the pass, but also any other paid occupa-

tion or employment where their privileged access to Parliament is relevant. That committee further recommended that a copy of that Register should be placed in the House of Commons Library for the use of Members.

A Public Register?

14. Concern has been expressed by some members of the Committee that the Register of Members' Interests will be too accessible. This concern stems not from an unwillingness to register their interests but rather from an apparently genuinely held fear that information gained from the Register might pose a risk to the person or property of Members and their families.

15. This matter was addressed briefly in the Report of the Committee of Inquiry into Public Duty and Private Interest (the Bowen Report) (PP No. 353/1979 - paragraphs 6.45 - 6.47) which indicated that the Committee was unable to arrive at firm opinions on these matters. However, it went on to say:

"Fortunately, Australia has so far been relatively free of these types of activity. It sees no reason to suggest that, if otherwise it was considered to be in the public interest to introduce a register, a decision to introduce it should be rejected upon these grounds."

16. The spate of acts of terrorism in other parts of the world and recent events in Australia are a cause for considerable concern to the Committee. It is the Committee's strong belief that very serious

re-consideration needs to be given to the extent of the public availability of a Register.

17. The Committee appreciates the difficulties that could occur if a restriction was placed on access to a Register of Members' Interests. To some extent such a restriction would defeat the purpose of a Register. It may be possible to devise an arrangement whereby access to the information contained in the Register would be available only to those who could demonstrate a proper and genuine need to know. In this way, it may be possible to reduce the risk to Members and their families posed by unscrupulous persons. The Committee recommends that an arrangement for limiting access to the Register be given earnest consideration.

Spouses and dependent children and awareness of interests

18. The resolutions of the House of 9 October 1984 a.m. require that a Member should register not only his or her interests but also those of which the Member is aware of the Member's spouse and any children who are wholly or mainly dependent on the Member for support. Strong objection has been lodged with members of the Committee in respect of this additional requirement.

19. The registration of the interests of a spouse and dependent children was dealt with to some extent in the Bowen Report ibid. In recommending the adoption of a Code of Conduct for general application to all officeholders (i.e., including Members of the Parliament) that committee proposed the inclusion of the following item:

"5. When the interests of members of his immediate family are involved, the officeholder should disclose those interests, to the extent that they are known to him. Members of the immediate family will ordinarily comprise only the officeholder's spouse and dependent children, but may include other members of his household or family when their interests are closely connected with his". (page 31)

Whilst that committee did not favour the introduction of a compulsory Register of Interests, it stated (at page 219) that:

"...should a decision be taken to require officeholders to register their pecuniary interests, the register should be as comprehensive as practicable. For the reasons now outlined, a comprehensive register of interests should, in the Committee's opinion, include the following ingredients:

- (a) Disclosure of interests of the officeholder and members of his immediate family for whom he has responsibility. For the purposes of this requirement, the definition of immediate family is to be regarded as the same as that appearing in item 5 of the proposed Code of Conduct recommended in Chapter 4. It could thus cover defacto spouses, dependent children of whatever age, and any other dependent relatives whose affairs were so closely connected with those of the officeholder that a benefit to them might flow on to a significant extent to the officeholder."

20. On the other hand, in New South Wales, Victoria, South Australia and the Northern Territory which have passed legislation for the registration of interests, only South Australia requires the interests of a spouse and dependent children to be registered in certain respects. In the United States of America the reporting individual is required to include information concerning his or her spouse and dependent children in most sections of the disclosure statement whereas in the United Kingdom the requirement for disclosure of the interests of a spouse or dependent children is limited to giving "the names of companies or other bodies in which the Member to his knowledge has, either himself or with or on behalf of his spouse and infant children, a beneficial interest in shareholdings of a nominal value greater than one-hundredth of the issued share capital".

21. It is also noted that in the Dissenting Report attached to the Report of the House of Representatives Standing Orders Committee in respect of the Declaration and Registration of Private Interests of Members (PP No. 144/1984), five members of that committee reported that they considered "the requirement that Members should be obliged to declare the private interests of their families of which they are aware to be an indefensible invasion of the privacy of Members' families to which the strongest objection must be taken".

22. In view of the differing provisions in the various legislatures and the strong reservations expressed by many Members to the requirement to register the interests of a spouse and dependent children, the Committee recommends that the House reconsider this aspect of the requirements.

23. The Committee also observes that compliance with the requirement for a Member to register the interests of which the Member is aware of a spouse and of children who are wholly or mainly dependent on a Member for support can pose difficulties. In this regard it notes that when returns of registrable interests of Ministers were tabled, it became necessary for a number of additional statements relating to omissions from, or alterations to, the original statements in respect of spouses to be tabled. This would appear to indicate a degree of difficulty in providing comprehensive details and may in itself be another reason for not requiring registration of the interests of a spouse and dependent children.

24. The Committee observes also that considerable difficulty will be experienced by it, Members and others in applying a reasonable and proper interpretation to the words "of which the Member is aware" in respect of the requirement to register the interests of a spouse and dependent children. It is unclear to the committee the extent, if any, to which a Member should be required to go to become "aware" of the interests of a spouse and dependent children, or whether knowledge acquired by a Member purely as a spouse of a person who has his or her own quite independent business or other pecuniary interests should be required to be included in the Member's return. Not only does the question of the invasion of the privacy of the spouse arise but the matter of "awareness" has the potential to create very significant difficulties in the operation of the requirements.

Penalties

25. Presently no penalties are provided for non-compliance with the registration requirements. The question arises as to the effectiveness of any requirement if no sanction is provided.

26. The Report of the House of Representatives Standing Orders Committee ibid quoted with apparent approval evidence given by the Clerk of the House of Commons to its Select Committee on Members' Interests (Declaration) (HC. 102 (1974-75), p. xii) that:

"The ultimate sanction behind the obligation upon Members to register would be the fact that it was imposed by resolution of the House. ... There can be no doubt that the House might consider either a refusal to register as required by its Resolutions or the wilful furnishing of misleading or false information to be a contempt. The sanction of possible penal jurisdiction by the House should be sufficient".

On the other hand, the Bowen Report, op cit (page 223), stated that:

"A breach of the rules, whether by failing to lodge a return or lodging an incomplete or inaccurate return, should be considered by Parliament as breach of privilege with the attendant sanctions available. The experience of the British House of Commons, where no sanction for non-compliance has been provided, proves the necessity for some sanction".

27. The experience of the British House of Commons referred to in the preceding statement related to a situation existing some years ago in which a number

of Members failed to lodge their statements of interests. Only one Member still refuses to lodge a statement. It is understood that there is no intention to provide sanctions for failure to comply with the requirements and no attempt has been made to compel the recalcitrant Member to lodge a return.

28. The legislation in the United States of America provides that the Attorney-General may bring a civil action against any individual who knowingly and wilfully falsifies or fails to report the information required by the Act. A court may assess a civil penalty not exceeding \$5000 against such an individual. Legislation enacted in New South Wales, Victoria, South Australia and the Northern Territory also provides for sanctions to be imposed.

The provisions are:

New South Wales - The House may declare the Member's seat vacant.

Victoria - In addition to any other punishment for contempt of the House, the particular House may impose a fine not exceeding \$2000; in default of payment of any fine imposed within the time ordered by the House, the seat of the Member shall become vacant.

South Australia - The legislation provides that any person who wilfully contravenes or fails to comply with most of the provisions of the Act (including the registration

requirements) shall be guilty of an offence and liable to a penalty not exceeding \$5000.

Northern Territory - the legislation provides

that a wilful contravention of a requirement of the

Act is a contempt of the

Assembly and may be dealt

with accordingly.

29. In the House of Representatives it is presently open to the House to reprimand, suspend or, in an extreme case, to expel a Member for misconduct. It also possesses the power to imprison a Member for contempt but it is acknowledged that the use of such a power would be considered to be most unlikely to be acceptable. The power to expel a Member has only been exercised on one occasion (the Hon. Hugh Mahon on 11 November 1920 for allegedly uttering seditious and disloyal utterances at a public meeting) and recently the Joint Select Committee on Parliamentary Privilege (PP219/1984) recommended (albeit with a dissenting report) that the House/Senate should no longer possess a power of expulsion. A private Member's bill based on the majority view of that committee, is presently before the House and proposes that the House should no longer possess a power of expulsion. It does provide however for the ability to impose a fine.

30. The Committee has set out details of the penalties provided in other Legislatures and the penal and other powers presently available to the House of Representatives so that Members may be aware of the position. However, it should be made clear that the Committee neither advocates nor recommends the introduction of specific penalties for failure to comply with the registration requirements.

What is a "conflict of interest"?

31. The resolutions adopted by the House provide for Members to register "any other interests, such as membership of organisations, where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise". Later in this report, the Committee will deal with the difficulty of determining which classification of organisation may fall into that category. In this section, however, the Committee will deal with the question only of what constitutes a "conflict of interest".

32. On page 11, paragraph 2.26, of the Bowen Report, op cit, that Committee stated

"The Committee believes that, in judging whether a particular non-pecuniary interest could create conflict in certain situations, or whether rules should be laid down in relation to a certain type of non-pecuniary interest, the test is the likelihood that the person possessing the interest could be influenced in the independent judgement which his public duty requires be applied to the matter in hand, or that a reasonable person would believe that he could be so influenced".

33. This Committee endorses that view. It acknowledges the difficulty of attempting to lay down a definition of "conflict of interest" and believes that each individual case should be considered on its merits. It also believes that the decision whether a particular non-pecuniary benefit needs to be registered is one that must in the nature of things be left to the discretion and judgement of the individual Member.

A trustee of an estate

34. The Committee's attention has been drawn specifically to the position of a Member who is an executor and trustee of his father's estate and who administers that estate for the benefit of his mother. Part of the estate consists of a small portfolio of shares in respect of which the Member is entitled to exercise the right to vote or to dispose of those shares for the benefit of the estate. Within the terms of the resolutions adopted by the House, the Member is required to register those shareholdings.

35. The Member concerned has voiced his very strong objection to what he considers to be an invasion of the privacy of the affairs of his late father and of his mother. Whilst he acknowledges that he is entitled to exercise the right to vote in respect of those shareholdings - a fact which would require him to register the shareholdings if they were his own property - he believes it quite unreasonable and contrary to the spirit of the registration requirements that he should be required to register the shareholdings in these circumstances.

36. In the interests of the privacy of a person who happens to have a Member as an executive or trustee of an estate administered on behalf of that person, the Committee recommends that the resolutions of the House should be amended to specifically exclude the registration requirement in such a situation if the Member has no beneficial interest in the estate.

Interests in companies to be determined by the Committee

37. Paragraph (d) of resolution 2 of the registration requirements provides for the registration of

"interests in companies to be determined by the Committee of Members' Interests".

The Committee observes that in the notice of motion given to the House in respect of these matters, the paragraph read

"directorships in private companies, indicating the name of the company, its activities and the total amounts of its assets and liabilities"

but the terms were changed when the motion was moved in the House.

38. The Committee notes that in respect of the registration arrangements applying to Ministers, there is a requirement to register directorships in companies (although it is noted that Ministers may not retain directorships of public companies and may retain directorships of private companies only in certain circumstances). It seems to the Committee that the requirement contained in the House resolutions of 9 October 1984 a.m. should be interpreted to require the registration of any registered directorships in companies held by the Member. Unless the House should indicate otherwise, it proposes to determine accordingly.

Partnerships

39. Paragraph (e) of resolution (2) adopted by the House requires the registration of

"partnerships, indicating the nature of the interests, the activities of the partnership and the total amounts of its assets and liabilities".

The Committee believes that it would be quite unreasonable to expect any Member to be able to comply fully with this requirement. The amount of the assets held by a partnership may vary on a daily basis, or even more than once a day on occasions, and the frequency with which its liabilities may be incurred cannot be predicted. It would be difficult, time consuming and in fact, pointless to ask Members to provide this information.

40. The Committee notes that in respect of the Ministerial requirements the information required to be furnished is limited to specifying (a) the purpose or operations of the partnership or joint venture and (b) the level of current involvement (e.g. financial (sleeping) partner or consultant). Similar requirements apply to senior public servants and ministerial staff and in neither case is the person required to attempt to provide the total amounts of the assets or liabilities of the partnership.

41. In view of the difficulties involved in complying with the existing requirement, the frequency with which changes in circumstances would have to be supplied and the fact that this information has not been sought in respect of Ministers and senior public servants, the Committee recommends that the information sought should be limited to specifying the purpose of the partnership and the nature of the interest held.

Liabilities

42. The resolutions of the House (paragraph (f) of resolution (2)) require Members to register:

"liabilities (excluding short-term credit arrangements) indicating the nature of the liability and the creditor concerned".

The Committee foresees difficulties in Members meeting this requirement. Whilst short-term credit arrangements have been specifically excluded from the requirement, it appears to the Committee that they pose greater potential for a conflict of interest situation to arise than may be the case with other longer-term liabilities. The Committee recommends a reconsideration of the need to register liabilities and, if the requirement is to be persisted in, some clarification of what constitutes a short-term credit arrangement. In the absence of some clarification, Members, the Committee and the Registrar will be placed in a difficult situation.

Household and personal effects or a collection?

43. In paragraph (i) of resolution (2) of the House, Members are required to register -

"the nature of any other assets (including collections, but excluding household and personal effects) each valued at over \$5000".

There are a number of aspects of this requirement which are of concern to the Committee and to which it invites attention:

44. This is the only part of the resolutions where the value of interests required to be registered is specified. As a consequence, it will be obvious to any person examining the completed register that a collection held by a particular person is of substantial value (i.e. more than \$5000). This knowledge will render the collection particularly vulnerable to theft. In this respect, the Committee invites attention to a recent case which occurred in Canberra when publicity given to the existence of a valuable stamp collection led to its elderly owner being assaulted in his home and the collection stolen.

45. The Committee fails to see why there is a requirement for a Member to register ownership of a collection. It does not believe that possession of, say, a collection of paintings, stamps or antiques, is likely to bring a Member into a conflict of interest situation in the House or a committee. It recommends that the House give reconsideration to this requirement.

46. The Committee also believes that in any reconsideration of this matter, the House should consider whether a distinction should be made between (a) household and personal effects and (b) collections. The Committee fails to see that a distinction should be made between on one hand "household effects" which may comprise valuable antique furniture or "personal effects" such as expensive jewellery and on the other hand "collections" of whatever nature. Nor is it clear how to distinguish between the two. It urges a review of this aspect of the requirements.

Gifts

47. Clearly, the disclosure of gifts received by a Member or his or her immediate family is an essential element of the registration requirements. The offer and acceptance of a gift has the potential for a conflict of interest, or to be seen by some as a conflict of interest. Its public disclosure reduces or eliminates such a perception.

48. Obviously however, there are certain types of gifts which pose no threat of conflict of interest nor could they be so seen. Such gifts would obviously include, say, a grandparent's gift of a bicycle to a child of a Member or a Christmas or birthday gift received by a Member, the Member's spouse or dependent child from a relative or close personal friend in a purely personal way. The Committee is satisfied

that the adoption of a sensible approach to this aspect of the registration requirements will overcome any difficulties in this area and it proposes that the Registrar should apply the following guideline in determining whether a particular gift needs to be registered:

"A gift received by a Member, the Member's spouse or dependent children from family members or personal friends in a purely personal capacity need not be disclosed unless the Member judges an appearance of conflict of interest may be seen to exist".

49. In recommending this approach, the Committee is mindful of the fact that the onus is on a Member in any system of registration of interests. If a Member is uncertain as to whether a particular item should be registered, he or she should seek the advice of the Registrar which will be given in complete confidence. It also needs to be recognised that should a Member deliberately conceal a particular registrable item it is likely that ultimately knowledge of it will become public in some way and the Member pay the price for the concealment, be it some sanction imposed by the House or a political consequence.

50. At the present time the resolutions require the registration of gifts valued at more than \$250 received from official sources or at more than \$100 where received from other than official sources. The Committee believes that the monetary values set by the requirements should be reviewed periodically with the objective of maintaining those values in real terms. It recommends that the House take appropriate action in this regard.

Sponsored travel or hospitality received

51. This is another area of the registration requirements of particular importance but in respect of which some difficulty of interpretation is apparent. The Committee recognises the potential for a conflict of interest situation to occur in the acceptance by a Member, the Member's spouse or dependent children of sponsored travel or hospitality.

52. It believes that in most cases "sponsored travel" can be readily identified and proposes that the following definition should be applied:

"Sponsored travel" means any free or subsidised travel undertaken by a Member, a Member's spouse or dependent children sponsored wholly or partly by any person, organisation, business or interest group or foreign Government or its representative. It does not include any travel entitlement received by a Member, a Member's spouse or dependent children under any determination by the Remuneration Tribunal nor travel undertaken as a member of an official Parliamentary delegation".

53. The Committee has experienced much more difficulty in reaching a satisfactory definition of "hospitality" for the purposes of the registration requirements. Obviously, there will be very many occasions when a Member will be entertained by constituents or interest groups quite properly and legitimately exercising their powers of political persuasion, explanation, or argument on the merits of a particular issue to further a particular cause or concern. This may also include acceptance of invitations hosted by a company, business group or industrial or professional organisation. The Committee sees no need for the registration of hospitality of this nature. Similarly it sees no need to require a Member to

register his or her attendance at a reception or dinner hosted by an overseas representative - a fairly frequent occurrence during sitting periods of the House.

54. On the other hand, the Committee is satisfied that a Member should register the acceptance of free or subsidised accommodation or travelling expenses received either separately or in conjunction with sponsored travel undertaken. The use by a Member, a Member's spouse or dependent children of accommodation made available by another person, company or organisation, other than by a close personal friend or relative, should be registered where there is seen to be any potential for conflict of interest. In all cases the onus for disclosure should rest on the Member and the advice of the Registrar sought where any uncertainty exists. It should also be noted that the Committee sees it as a responsibility of the Registrar to put before it for advice any matter which he feels unable to determine. The confidential relationship between a Member and the Registrar, which is an essential element of the registration requirements, would be maintained by the Registrar not revealing the identity of the Member concerned but only the particular circumstances surrounding the case upon which advice of the Committee was being sought.

Membership of organisations

55. Paragraph (m) of resolution (2) adopted by the House requires the registration of "any other interests, such as membership of organisations, where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise".

Earlier in this report, the Committee has dealt with the difficulties of defining "conflict of interest". The classification of organisations, membership of which may warrant registration, poses similar difficulties.

56. Whilst the resolutions limit the requirement to the registration of membership of organisations "where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise" it has become apparent to the Committee that membership of any organisation, be it political, sporting, recreational, religious or community based, may have the potential for a conflict of interest situation to arise. For this reason, the Committee is reluctantly forced to the conclusion that it will be necessary for it to require the registration of the membership of all organisations. It seeks the concurrence of the House in this approach to the registration requirement.

CONCLUSION

57. In this report, the Committee has set out the difficulties it has experienced in attempting to determine a form for use by Members in registering their interests. It is obvious that further direction and clarification is required from the House before the Committee will be able to successfully address its task.

58. The Committee considers that the most expeditious way of dealing with this matter is for it to pose a series of questions covering the matters raised in this report for consideration and response by the House. The primary question which needs to be addressed is:

- (a) Does the House intend that Members of the House of Representatives should be required to register their interests notwithstanding the failure of the Senate to impose a similar requirement on Senators?

If the answer to this question is in the negative, no further matters need be addressed at this time. On the other hand, if it is intended that registration should occur, the following questions need to be answered:

- (b) Is it required that information provided by Members should be tabled, published and available in a public register or should another arrangement be devised to limit access to the material to reduce risks posed to the person and property of Members and their families by unscrupulous persons;
- (c) Does the House intend that a Member should be required to register the interests of which he or she is aware of the Member's spouse and any children who are wholly or mainly dependent on the Member for support and what steps is a Member expected to take to become aware, as discussed in paragraph 24;
- (d) Does the House agree that the decision whether a particular non-pecuniary benefit needs to be registered must be left to the discretion and judgment of the individual Member;
- (e) Should the resolutions of the House be amended to specifically exclude the requirement for a Member to register shareholdings held by him or her in the capacity of

executor/trustee of a deceased person's estate where the beneficiaries of the estate do not include the Member.

- (f) Does the House accept the Committee's recommendation that paragraph (d) of resolution (2) adopted by the House on 9 October 1984 a.m. should be interpreted as requiring the registration only of registered directorships in companies;
- (g) Should the resolutions of the House be amended to require that a Member need only register the purpose of any partnership and the nature of the interest held and not the total amounts of the assets and liabilities of the partnership;
- (h) Should short-term credit arrangements be registered as liabilities and what type of liability should be regarded as falling into that classification;
- (i) Should a distinction be drawn between (a) household and personal effects and (b) collections and is there a need to register items falling into either category;
- (j) Does the House support the Committee's intention to determine that a gift received by a Member, the Member's spouse or dependent children from family or personal friends in a purely personal capacity need not be disclosed unless the Member judges an appearance of conflict of interest may be seen to exist;

- (k) Is it proposed to review periodically the value of gifts which need to be registered;
- (l) Are the guidelines proposed by the Committee in respect of sponsored travel and hospitality considered adequate to deal with these matters, and
- (m) Is it accepted that membership of any organisation may provide the potential for a conflict of interest situation to occur and that Members should therefore be required to register membership of all organisations irrespective of their nature.

CHAIRMAN

18 SEPTEMBER 1985

COMMITTEE OF MEMBERS' INTERESTS

NEW STANDING ORDER 28A ADOPTED BY THE
HOUSE OF REPRESENTATIVES
ON 9 OCTOBER 1984, a.m.

Committee of Members' Interests

28A. (a) A Committee of Members' Interests shall be appointed at the commencement of each Parliament—

- (i) to inquire into and report upon the arrangements made for the compilation, maintenance and accessibility of a Register of Members' Interests;
- (ii) to consider any proposals made by Members and others as to the form and content of the register;
- (iii) to consider any specific complaints made in relation to the registering or declaring of interests;
- (iv) to consider what changes to any code of conduct adopted by the House are necessary or desirable;
- (v) to consider what classes of person (if any) other than Members ought to be required to register and declare their interests, and
- (vi) to make recommendations upon these and any other matters which are relevant.

(b) The committee shall consist of 7 members, 4 Members to be nominated by either the Prime Minister, the Leader of the House or the Government Whip and 3 Members to be nominated by either the Leader of the Opposition, the Deputy Leader of the Opposition or the Opposition Whip:

Provided that, where the Opposition is composed of 2 parties, the committee shall consist of 4 Members to be nominated by either the Prime Minister, the Leader of the House or the Government Whip, 2 Members to be nominated by either the Leader of the Opposition, the Deputy Leader of the Opposition or the Opposition Whip, and 1 Member to be nominated by either the Leader of the Third Party, the Deputy Leader of the Third Party or the Third Party Whip.

(c) The committee shall elect as chairman of the committee one of the Members nominated either by the Prime Minister, the Leader of the House or the Government Whip.

(d) The committee shall have power to send for persons, papers and records but shall not exercise that power, nor undertake an investigation of the private interests of any person, unless approved by not less than 4 members of the committee other than the chairman.

(e) The committee shall have power to confer with a similar committee of the Senate.

(f) The committee shall, as soon as practicable after 31 December in each year, prepare and table in the House a report on its operations during that year and shall also have power to report from time to time.

DECLARATION AND REGISTRATION
OF MEMBERS' INTERESTSRESOLUTIONS ADOPTED BY THE HOUSE OF REPRESENTATIVES
ON 9 OCTOBER 1984, a.m.

That the following resolutions relating to the registration and declaration of Members' interests be adopted, such resolutions to have effect from the commencement of the 34th Parliament and to continue in force unless and until amended or repealed by the House of Representatives in this or a subsequent Parliament:

(1) Declaration of Members' interests

That within 28 days of making and subscribing an oath or affirmation as a Member of the House of Representatives and within 28 days after the commencement of the first period of sittings in each subsequent calendar year while remaining a Member of the House of Representatives, each Member shall provide to the Registrar of Members' Interests, a statement of—

- (1) the Member's registrable interests; and
- (2) the registrable interests of which the Member is aware (a) of the Member's spouse and (b) of any children who are wholly or mainly dependent on the Member for support,

in accordance with resolutions adopted by the House and in a form determined by the Committee of Members' Interests from time to time, and shall also notify any alteration of those interests to the Registrar within 28 days of that alteration occurring.

(2) Registrable interests

That the statement of a Member's registrable interests to be provided by a Member shall include the registrable interests of which the Member is aware (1) of the Member's spouse and (2) of any children who are wholly or mainly dependent on the Member for support, and shall cover the following matters:

- (a) shareholdings in public and private companies (including holding companies) indicating the name of the company or companies;
- (b) family and business trusts and nominee companies—
 - (i) in which a beneficial interest is held, indicating the name of the trust, the nature of its operation and beneficial interest; and
 - (ii) in which the Member, the Member's spouse, or a child who is wholly or mainly dependent on the Member for support, is a trustee, indicating the name of the trust, the nature of its operation and the beneficiary of the trust;
- (c) real estate, including the location (suburb or area only) and the purpose for which it is owned;
- (d) interests in companies to be determined by the Committee of Members' Interests;
- (e) partnerships, indicating the nature of the interests, the activities of the partnership and the total amounts of its assets and liabilities;
- (f) liabilities (excluding short-term credit arrangements) indicating the nature of the liability and the creditor concerned;
- (g) the nature of any bonds, debentures and like investments;
- (h) saving or investment accounts, indicating their nature and the name of the bank or other institutions concerned;
- (i) the nature of any other assets (including collections, but excluding household and personal effects) each valued at over \$5000;
- (j) the nature of any other substantial sources of income;
- (k) gifts valued at more than \$250 received from official sources, or at more than \$100 where received from other than official sources;
- (l) any sponsored travel or hospitality received; and
- (m) any other interests, such as membership of organisations, where a conflict of interest with a Member's public duties could foreseeably arise or be seen to arise.

(3) Register and Registrar of Members' Interests

That—

- (a) at the commencement of each Parliament, and at other times as necessary, Mr Speaker shall appoint an officer of the Department of the House of Representatives as the Registrar of Members' Interests and that officer shall also be clerk to the Committee of Members' Interests;
- (b) the Registrar of Members' Interests shall, in accordance with procedures determined by the Committee of Members' Interests, maintain a Register of Members' Interests in a form to be determined by that committee from time to time;
- (c) as soon as possible after the commencement of each Parliament and in each subsequent calendar year during the life of that Parliament, the chairman of the Committee of Members' Interests shall table in the House a copy of the completed Register of Members' Interests and shall also table from time to time as required any notification by a Member of alteration of those interests, and
- (d) the Register of Members' Interests shall be available for inspection by any person under conditions to be laid down by the Committee of Members' Interests from time to time.

(4) Declaration of interest in debate and other proceedings

That, notwithstanding the lodgement by a Member of a statement of the Member's registrable interests and the registrable interests of which the Member is aware (1) of the Member's spouse and (2) of any children who are wholly or mainly dependent on the Member for support, and the incorporation of that statement in a Register of Members' Interests, a Member shall declare any relevant interest—

- (a) at the beginning of his or her speech if the Member should participate in debate in the House, committee of the whole House, or a committee of the House (or of the House and the Senate), and
- (b) as soon as practicable after a division is called for in the House, committee of the whole House, or a committee of the House (or of the House and the Senate) if the Member proposes to vote in that division, and

the declaration shall be recorded and indexed in the *Votes and Proceedings* or minutes of proceedings (as applicable) and in any *Hansard* report of those proceedings or that division:

Provided that it shall not be necessary for a Member to declare an interest when directing a question seeking information in accordance with standing order 142 or 143.

HOUSE OF REPRESENTATIVES

COMMITTEE OF MEMBERS' INTERESTS

34th Parliament - 2nd Meeting

Minutes of Proceedings of meeting held on
16 April 1985 at 3.35 p.m.

1. Present:

Dr R.E. Klugman, M.P. (Chairman)
The Hon. A.E. Adermann, M.P.
The Hon. N.A. Brown, Q.C., M.P.
Mr D.M. Cameron, M.P.
Mr L. Kent, M.P.
Mr E.J. Lindsay, R.F.D., M.P.
Mr M.J. Maher, M.P.

2. Cancellation of scheduled meeting:

The Chairman informed the Committee of the circumstances necessitating the cancellation of the meeting scheduled for Tuesday, 26 March 1985.

3. Minutes of Proceedings:

The Minutes of Proceedings of the meeting of the Committee held on 20 March 1985 were confirmed.

4. Resolution of the House of Representatives

The Chairman presented an extract from Votes and Proceedings No. 9 dated Thursday, 21 March 1985 containing a resolution providing that -

- (a) in the case of Members of the House of Representatives of the 34th Parliament who made and subscribed an oath or affirmation on 21 February 1985, a further period of 28 days from the day of issue of the forms of annual return by the Registrar of Members' Interests be granted within which they will be required to provide a statement of registrable interests to the Registrar of Members' Interests in accordance with the resolutions adopted by the House on 9 October 1984 a.m., and

(b) in all other respects, the resolutions adopted by the House on 9 October 1984 a.m. relating to the registration and declaration of interests continue in force.

5. Registration of Members' Interests:

The Committee deliberated.

6. Future Meeting Arrangements:

Ordered -

That the next meeting of the Committee be held on Tuesday, 7 May 1985 at 3.30 p.m. and that further meetings be scheduled for the same time on Tuesday, 14 and Tuesday, 21 May 1985.

7. Official Photograph of Committee:

Resolved on the motion of Mr Lindsay -

That, this being the first Committee of the Members' Interests to have been established, arrangements be made for the taking of an official photograph of the Committee at its next meeting.

8. Adjournment:

The Committee adjourned at 5.03 p.m.

HOUSE OF REPRESENTATIVES

COMMITTEE OF MEMBERS' INTERESTS

34th Parliament - 3rd Meeting

Minutes of Proceedings of meeting held on
7 May 1985 at 4 p.m.

1. Present:

Dr R.E. Klugman, M.P. (Chairman)
The Hon. A.E. Adermann, M.P.
The Hon. N.A. Brown, Q.C., M.P.
Mr D.M. Cameron, M.P.
Mr L. Kent, M.P.
Mr E.J. Lindsay, R.F.D., M.P.
Mr M.J. Maher, M.P.

2. Minutes of Proceedings:

The Minutes of Proceedings of the meeting
of the Committee held on 16 April 1985 were
confirmed.

3. Registration of Members' Interests:

The Committee deliberated.

4. Adjournment:

The Committee adjourned at 5.12 p.m. until
Tuesday, 14 May 1985 at 3.30 p.m.

HOUSE OF REPRESENTATIVES

COMMITTEE OF MEMBERS' INTERESTS

34th Parliament - 4th Meeting

Minutes of Proceedings of meeting held on
14 May 1985 at 3.30 p.m.

1. Present:

Dr R.E. Klugman, M.P. (Chairman)
The Hon. A.E. Adermann, M.P.
The Hon. N.A. Brown, Q.C., M.P.
Mr L. Kent, M.P.
Mr E.J. Lindsay, R.F.D., M.P.
Mr M.J. Maher, M.P.

2. Minutes of Proceedings:

The Minutes of Proceedings of the meeting
of the Committee held on 7 May 1985 were confirmed.

3. Registration of Members' Interests:

The Committee deliberated.

4. Adjournment:

The Committee adjourned at 5.10 p.m. until
Tuesday, 21 May 1985 at 3.30 p.m.

HOUSE OF REPRESENTATIVES

COMMITTEE OF MEMBERS' INTERESTS

34th Parliament - 5th Meeting

Minutes of Proceedings of meeting held on
21 May 1985 at 3.40 p.m.

1. Present:

Dr R.E. Klugman, M.P. (Chairman)
The Hon. A.E. Adermann, M.P.
Mr D.M. Cameron, M.P.
Mr L. Kent, M.P.
Mr E.J. Lindsay, R.F.D., M.P.
Mr M.J. Maher, M.P.

2. Minutes of Proceedings:

The Minutes of Proceedings of the meeting of the Committee held on 14 May 1985 were confirmed.

3. Registration of Members' Interests:

The Committee deliberated.

Ordered - That a draft report to the House outlining areas of difficulty in the registration requirements and related matters be prepared for consideration during the winter adjournment.

4. Adjournment:

The Committee adjourned at 4.55 p.m. until a date to be determined.

HOUSE OF REPRESENTATIVES

COMMITTEE OF MEMBERS' INTERESTS

34th Parliament - 6th Meeting

Minutes of Proceedings of meeting held on
10 September 1985 at 4 p.m.

1. Present:

Dr R.E. Klugman, MP (Chairman)
The Hon. A.E. Adermann, MP
Mr D.M. Cameron, MP
Mr L. Kent, MP
Mr E.J. Lindsay, RFD, MP
Mr M.J. Maher, MP
Mr J.M. Spender, QC, MP

2. Membership of committee:

The Chairman informed the committee that the House of Representatives had this day appointed Mr J.M. Spender, QC, MP, as a member of the committee in the place of the Hon. N.A. Brown, QC, MP, resigned.

3. Minutes of Proceedings:

The Minutes of Proceedings of the meeting of the Committee held on 21 May 1985 were confirmed.

4. Registration of Members' Interests:

The Chairman brought up his draft report relating to the registration requirements.

The committee deliberated.

The committee proceeded to consider the draft report -

Paragraphs 1 to 4 agreed to.
Paragraph 5 amended and agreed to.
Paragraph 6 agreed to.
Paragraph 7 amended and agreed to.
Paragraphs 8 to 11 agreed to.
New paragraph 11A inserted.
Paragraph 12 amended and agreed to.

2.

Paragraphs 13 and 14 agreed to.
Paragraph 15 amended and agreed to.
Paragraph 16 amended and agreed to.
Paragraphs 17 to 22 agreed to.
New paragraph 22A inserted.
Paragraphs 23 to 26 agreed to.
Paragraph 27 amended and agreed to.
Paragraph 28 omitted and new paragraph inserted.
Paragraphs 29 and 30 agreed to.
Paragraph 31 amended and agreed to.
Paragraphs 32 to 35 agreed to.
Paragraph 36 amended and agreed to.
New paragraphs 36A, 36B and 36C inserted.

Ordered - That the draft report be reprinted incorporating amendments already made by the committee and that the reprinted draft and the remaining paragraphs be considered at the next meeting.

5. Adjournment:

The committee adjourned at 6.05 p.m. until Monday, 16 September 1985 at 4 p.m.

HOUSE OF REPRESENTATIVES

COMMITTEE OF MEMBERS' INTERESTS

34th Parliament - 7th Meeting

Minutes of Proceedings of meeting held on
16 September 1985 at 4.15 p.m.

(1) Present:

Dr R.E. Klugman, MP (Chairman)
Mr D.M. Cameron, MP
Mr L. Kent, MP
Mr E.J. Lindsay, RFD, MP
Mr M.J. Maher, MP
Mr J.M. Spender, QC, MP

(2) Minutes of Proceedings:

The Minutes of Proceedings of the meeting held on 10 September 1985 were confirmed.

(3) Registration of Members' Interests

The Chairman brought up a reprinted draft report incorporating amendments already made by the Committee.

The Committee proceeded to consider the reprinted draft report.

Reprinted paragraphs 1 to 28 agreed to.
Reprinted paragraph 29 amended and agreed to.
Reprinted paragraphs 30 to 41 agreed to.
Paragraph 42 amended and agreed to.
Paragraphs 43 to 45 agreed to.
Paragraph 46 amended and agreed to.
Paragraphs 47 to 49 agreed to.
New paragraph 49A inserted.
Paragraphs 50 to 53 agreed to.
Paragraph 54 amended and agreed to.
Paragraph 55 omitted and new paragraph inserted.
Paragraph 56 agreed to.
Paragraph 57 amended and agreed to.

Ordered - That the draft report be reprinted for consideration by the Committee at its next meeting.

(4) Adjournment:

The Committee adjourned at 5.35 p.m.

HOUSE OF REPRESENTATIVES

COMMITTEE OF MEMBERS' INTERESTS

34th Parliament - 8th Meeting

Minutes of Proceedings of meeting held on
18 September 1985 at 11 a.m.

(1) Present:

Dr R.E. Klugman, MP (Chairman)
Hon. A.E. Adermann, MP
Mr D.M. Cameron, MP
Mr L. Kent, MP
Mr E.J. Lindsay, RFD, MP
Mr M.J. Maher, MP
Mr J.M. Spender, QC, MP

(2) Minutes of Proceedings:

The Minutes of Proceedings of the meeting held
on 16 September 1985 were confirmed.

(3) Registration of Members' Interests

The Chairman brought up a further reprinted draft
report incorporating amendments already made
by the Committee.

The Committee proceeded to consider the reprinted
draft report.

Paragraphs 1 to 55, by leave, taken together
and agreed to.

Paragraph 56 amended and agreed to.

Paragraph 57 agreed to.

Paragraph 58 considered by sub-paragraphs -

Sub-paragraph (a) agreed to.

Sub-paragraph (b) amended and agreed to.

Sub-paragraph (c) amended and agreed to.

Sub-paragraph (d) omitted and new sub-paragraph
inserted.

Sub-paragraph (e) agreed to.

Sub-paragraph (f) amended and agreed to.

Sub-paragraph (g) omitted and new sub-paragraph
inserted.

Sub-paragraph (h) omitted and new sub-paragraph
inserted.

Sub-paragraph (i) agreed to.

Sub-paragraph (j) amended and agreed to.

2.

New sub-paragraph (ja) inserted.
Sub-paragraph (k) agreed to.
Sub-paragraph (l) amended and agreed to.

Paragraph 14 reconsidered, amended and agreed to.
Report, as amended, agreed to.

Resolved - On the motion of Mr D.M. Cameron - That
the report, as amended, be the report of the
committee to the House.

(4) Adjournment

The Committee adjourned at 11.50 a.m. until a
date and hour to be determined by the Chairman.