

1976-77

PARLIAMENT OF NEW SOUTH WALES

PROGRESS REPORT

from

THE JOINT COMMITTEE

of the

LEGISLATIVE COUNCIL AND

LEGISLATIVE ASSEMBLY

upon

PECUNIARY INTERESTS

together with

THE MINUTES OF PROCEEDINGS

Ordered to be printed, 29 November, 1977

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MEMBERS OF THE COMMITTEE

KEITH O'CONNELL, M.L.A. (CHAIRMAN)

Legislative Council

- * The Hon. Cyril Joseph Cahill, M.L.C.
- The Hon. Stanley Louis Mowbray Eskell, E.D., M.L.C.
- The Hon. Sir Asher Joel, K.B.E., M.L.C.
- The Hon. William Lloyd Lange, M.L.C.
- The Hon. Herbert John McPherson, M.L.C.
- The Hon. Robert Gavin Melville, M.L.C.
- The Hon. Joe Slater Thompson, M.L.C.

Legislative Assembly

- John Robert Arthur Dowd, LL.B., M.L.A.
- The Hon. George Francis Freudenstein, M.L.A.
- Maurice Francis Keane, M.L.A.
- Nicholas Joseph Kearns, M.L.A.
- Ernest Neville Quinn, M.L.A.
- Terence William Sheahan, B.A., LL.B., M.L.A.
- Arthur Edward Allanby Viney, M.L.A.

* Deceased 18 April, 1977.

**JOINT COMMITTEE
UPON
PECUNIARY INTERESTS**

TERMS OF REFERENCE

(1) That a Joint Committee be set up to inquire into and report whether arrangements should be made relative to the disclosure of members' interests and the registration thereof, and in particular—

- (a) what classes of pecuniary interest or other benefit are to be so disclosed;
- (b) how the register should be compiled and maintained and what arrangements should be made for public access thereto; and
- (c) what classes of person (if any) other than members of Parliament ought to be required to register—

and to make recommendations upon these and any other matters which are relevant thereto.

(2) That such committee consist of eight members of the Legislative Assembly and three members of the Legislative Council.

(3) That Mr Dowd, Mr Freudenstein, Mr Keane, Mr Kearns, Mr O'Connell, Mr Quinn, Mr Sheahan and Mr Viney be the members of the Legislative Assembly.

(4) That the committee have leave to sit during the sittings or any adjournment of either or both Houses and to make visits of inspection within the State of New South Wales, other States of Australia and the Australian Capital Territory.

On 29 September, 1976, the Legislative Council appointed the following seven of its members to the Committee, to which appointments the Legislative Assembly agreed on 30 September, 1976—

The Honourable C. J. Cahill
The Honourable S. L. M. Eskell
The Honourable Sir Asher Joel
The Honourable W. L. Lange
The Honourable H. J. McPherson
The Honourable R. G. Melville
The Honourable J. S. Thompson

Your Committee has agreed to the following report, which it begs to submit to your Honourable House:

1. Introduction

1.1 The Committee held its first meeting on 5 October, 1976, and Mr K. O'Connell, M.L.A., was elected Chairman. Procedures were formulated for the conduct of the inquiry and the Committee has to date met on fifteen occasions.

1.2 The membership of the Committee remained the same throughout its course, apart from the death of the Hon. C. J. Cahill, M.L.C. A replacement was not appointed.

1.3 The first step taken by the Committee was to obtain a copy of the Report of the Joint Committee of Pecuniary Interests of Members of the Federal Parliament (1975), together with a Report from the Select Committee on Member's Interests (Declaration) tabled in the House of Commons (1974).

1.4 Questionnaires were circulated to all members of Parliament in the Legislative Council and the Legislative Assembly seeking an opinion as to whether or not a register of the pecuniary interests of members should be instituted, and also their views upon Terms of Reference (a), (b) and (c).

1.5 Submissions were invited from the forty-eight permanent heads and chairmen of the statutory authorities throughout the New South Wales Public Service, and valuable information was forthcoming from forty-one of those officers. Seven officers did not take up the Committee's invitation.

1.6 Submissions were also invited from the following individuals/organizations:

- *Privacy Committee
- *The Ombudsman
- *Liberal Party of Australia (N.S.W. Division)
- Australian Labor Party (N.S.W. Branch)
- *Australian Country Party (N.S.W. Branch)
- *Public Service Association of New South Wales
- *Local Government and Shires Associations
- *Australian Journalists Association (N.S.W. Branch)
- Council for Civil Liberties
- *Australian Law Reform Commission
- *Professor Aitken of School of History, Philosophy and Politics, Macquarie University
- *John Fairfax and Sons Pty Ltd
- News Limited
- Financial Review
- *Private Secretaries and Assistant Private Secretaries Association
- *Local Government Electricity Association of N.S.W.
- Town Clerks Society of N.S.W.
- Royal Australian Planning Institute
- *Local Government Engineers Association
- Health Inspectors, Health Surveyors and Building Inspectors Associations
- Electricity Supply Engineers Association
- Local Government Town Planners Association

The organizations that responded to the Committee's invitation are indicated with an asterisk. The local government bodies referred to lastly, apart from the Electricity Supply Engineers Association, were only invited recently to make submissions and although they have each indicated that a submission would be forthcoming there was insufficient time to respond prior to tabling of this report.

1.7 Letters were sent to each Party Whip inviting them to nominate a spokesman to appear before the Committee and this invitation was taken up by the three (3) parties. The independent member acknowledged a similar invitation but declined to appear.

1.8 In April, 1977, the Committee advertised its Terms of Reference widely in the news media which resulted in a somewhat disappointing response of only five submissions from the general public.

1.9 The Committee had the benefit of studying a volume of reference material relating to not only the Parliaments of Australia but Parliaments in the United Kingdom, United States of America, Canada, New Zealand and New Guinea.

1.10 Thirteen witnesses who made detailed submissions have so far appeared before the Committee during its inquiry. However, before giving consideration to the desirability or otherwise of extending possible registration requirements to other classes of persons apart from members of Parliament, the Committee deemed it necessary to hear further evidence from several witnesses before the Committee's investigations could be completed.

1.11 The Committee has compiled this Progress Report on the basis of evidence provided by witnesses and information received in both submissions lodged, and reference material obtained. The Committee proposes to take evidence from those who are expert in transferring assets out of people's names for tax or other purposes before the compilation of the final report.

1.12 Page numbers of evidence referred to in this report are in respect of the minutes of evidence which will be tabled with the final report.

2. Progress Report

2.1 A wide range of views on the Terms of Reference were put before the Committee for consideration. Such views comprised thoughtful suggestions and constructive criticisms which were of valuable assistance to the Committee.

2.2 It was the task of your Committee to evaluate and weigh up the arguments put forward and formulate recommendations which would serve to protect and uphold the dignity of Parliament and the standing of the public official in the eyes of the community. The Committee's aims were to ensure that its recommendations enhanced the status and effectiveness of the institution of Parliament.

2.3 The Committee gave the question of the definition of "pecuniary interest" and "other benefit" close consideration and was of the opinion that both these terms should be combined into the one definition. In this light the Committee sees "pecuniary interest and other benefit" as "any interest capable of producing a benefit of a financial or material nature and any such benefit however received which could influence the person so concerned in the discharge of his duties or responsibilities".

2.4 In considering "whether arrangements should be made relative to the disclosure of members interests and the registration thereof" the Committee was obliged to balance the arguments put forward by those in favour of a registration system and those against. Was there a public demand or should the public be given a right to see that parliamentarians and public officials acted with honesty and propriety in making decisions which affect their way of life?

Is public confidence in the institution of government at a low ebb?

Is the general public suspicious and cynical about elected officials and their conduct?

Does the law relating to conflict of interest for members of Parliament and government officials need strengthening?

2.5 The Committee has attempted to answer these questions and many more of a complex nature in the following paragraphs.

2.6 The arguments both for and against the concept of a register which were put forward in evidence have been collated and are listed hereunder.

3. *Submissions made by those not supporting a registration system*

3.1 Unjustified invasion of privacy of registrants and those who may be associated with them, either by family, business or other ties.

3.2 A register would not give any degree of protection to members but the converse would be the case.

3.3 The interests contained in a register should not be made available for someone else to see. The Standing Orders are perfectly clear on the action which a member is to take if he holds a direct pecuniary interest in a matter before Parliament.

3.4 There is adequate alternative to registration in that members have to face the close scrutiny of their constituents every 3 years and it is preferable for constituents to judge whether a man is of integrity or not without his having to disclose in public his pecuniary interests. There did not appear to be any general public demand that a register be established.

3.5 The administrative complexities involved in having a register would not justify its existence.

3.6 A recommendation for a register would be doing a disservice to members—the honest member will do what is required of him and accept the disadvantage; the dishonest member will remain dishonest.

3.7 History of the New South Wales Parliament has shown that a register is unjustified. A register would neither ensure the honesty of a member nor increase the honesty of a member.

3.8 If a register were introduced and was open to public access the information contained therein may be further used to denigrate Parliament.

3.9 The whole matter of declaration of interests is best left to members' good sense for to do otherwise indicates some suspicion as to their probity and integrity.

3.10 A register would not promote a better public image of parliamentarians.

3.11 If registration by public servants were necessary it would be most likely that the interchange programme between public servants and top executives of large private companies would falter as those executives would not relish the thought of having to disclose their interests.

3.12 There appears to be inadequate justification for any further fetter on the right to vote which thereby disenfranchises the electorate. Parliament can be protected only through public criticism and public pressure and not by statutory requirements.

3.13 The vigilance of the powers of a member of Parliament for the protection of the House and the corporate image of the House provides the best safeguard for the ethical behaviour of all members by the threat of exposure on the floor of the House, either by direct question or alternatively by direct participation in the debate.

3.14 There would be no way of ascertaining the registrable interests of a member if he wished to deliberately omit them. In such cases a register would therefore be incomplete and ineffective.

4. *Submissions made by those in favour of a registration system*

4.1 With the democratic system being under such significant attack and it being eroded somewhat in the public mind it is essential that there should be a restoration of public confidence in the institution of Parliament.

4.2 If no evidence was produced to illustrate any conflicts of interests in the past, how would anyone find out if there were or not because there would be no way of determining the shareholding, no practical way of ascertaining the particular pecuniary interests of members unless there was such a register which an interested person could search, having justifiable reason for so doing.

4.3 A register would show to the public that not only are members honourable but that they can be shown to be honourable.

4.4 In the situation where a conflict of interest is disclosable and ascertainable it was as much in the interest of the person required to disclose as it was in the community interest—the community has a right to know.

4.5 A register would provide protection for a member and it would relieve any fear of innuendoes and cynicisms.

4.6 A register would support the premise that the functioning of Parliament and members of Parliament should be open to public knowledge.

4.7 The argument that the dishonest member would not disclose has no merit because the fear of being found out, the apprehension about being in disgrace with one's fellow-members of Parliament would be sufficient to deter anybody from misstating or failing to disclose relevant information.

4.8 Essential that members of Parliament and other persons having some influence or capable of exerting some influence on the making of public policy should declare interests.

4.9 By registration the electorate would be in an informed position to properly adjudicate and give proper weight to any view a member may advance in debate or a decision he may support.

4.10 A register would elevate the public status and image of members by showing that they are not trying to hide anything.

4.11 A register would be in many ways a protection for a member rather than an intrusion into his privacy.

4.12 A register could have a possible effect of doing away with the restrictions now existing on business people—the restrictions on dealing with government or local government instrumentalities—a system should be formulated whereby the matter is "on the table" and is dealt with in an ordinary commercial way.

5. One could argue the merits of the opinions expressed above at some length, however, the Committee deems it desirable to make specific reference to the main and most persuasive arguments put forward against the concept of a register.

5.1 *Invasion of Privacy*

One witness¹ summed up thus—

"any alternative involving a register of interests direct or indirect, public or otherwise, would in the Privacy Committee's opinion, provide only spasmodic and uneven benefits. Because of its ineffectiveness and its intrusion into the democratic process it would be an unjustified invasion of privacy."

On the other hand, another witness² maintained that—

"there is no doubt that a member is entitled to whatever privacy is commensurate with his taking on public office and that applies to his family as well; but, as I have pointed out, if he puts himself in a fish bowl as it were he must accept some loss of that privacy in the same way as a director who takes on an office which is representative of shareholders and is one of at least a fiduciary position acting on behalf of those shareholders, he should expect to be in the spotlight. He has to balance some loss of his privacy against the requirement that he should appear to be unbiased in his dealings on behalf, in the case of a director, his shareholders, as against the company, and in relation to the member, his own personal interests as against the interests of the electorate at large."

¹ See page 69 in evidence.

² See page 29 in evidence.

5.2 Existing Provisions within Parliamentary System Adequate

In this regard one witness¹ argued in part that—

“there appears inadequate justification for any further fetter of the right to vote, which thereby disenfranchises an electorate. There are effective forums in Parliament, and the media, and through public debate, by which the public, and in particular individual members of an electorate can be informed of relevant interests. The appropriate sanctions of public criticism and the democratic vote at the poll then follow.”

Here, the statement that there are effective forums in Parliament relating to declaration of pecuniary interest can be readily argued for, as pointed out later in this report, previous rulings given by Speakers in the Legislative Assembly means that there is virtually no matter coming before Parliament in the normal manner of which a member would have to disclose an interest and refrain from voting.

5.3 Register Easily Evaded

Evidence was given by a number of witnesses who argued that those members who desire to evade registration for dishonest purposes could easily do so by simply not declaring. It was in this context that the Committee was obliged to decide whether the purpose of a register was meant to cover this situation or to have as its main purpose the facility for informing the public so as to enable it to form an opinion as to the weight that should be given to the views and decisions of parliamentarians.

5.4 Unique Record of New South Wales Parliament

Some witnesses argued strongly that the unique record of this Parliament in not having experienced any major acts of dishonesty or malpractice negate the need for establishing a register. Attention was drawn to the Parliaments in Great Britain and the United States of America which established registers following scandals of some magnitude. To this assertion it can be claimed that a register would not attempt to discover such malpractices and because the New South Wales Parliament happens to have such an enviable record there is no reason to believe that a “Watergate” situation could not occur in the future.

6. Turning now to the main reasons advanced in support of a register, one witness² summed up thus—

“I believe that it is essential that members of Parliament and other persons having some influence or capable of exerting influence on the making of public policy should declare pecuniary interests . . . We reached the conclusion that with the democratic system under such significant attack and it being eroded somewhat in the public mind with the growth of cynicism about political leaders, it was essential that there should be a restoration of public confidence in the institution of Parliament.”

Another³ said that—

“The elected member holds his position as somewhat short of one of trust, if not a full position of trust, on behalf of the community or certainly his section of the community. By way of corollary to that any private interests he has which may impinge upon or influence in some way the decision in which he is taking part in the Parliament, should I feel be made public.”

7. On the question of whether other classes of persons should be required to register, in the light of the contrasting positions of Parliamentarians and public officials the Committee found it necessary to collate the evidence into the following categories:

- Part A—Members of Parliament.
- Part B—Public servants and employees of statutory authorities.
- Part C—Local government—elected members and council staff.
- Part D—Members of the media—who report upon the political proceedings of both Houses and who possess press passes in conformity with Standing Order 62 (a) of the Legislative Assembly.
- Part E—Members of Minister’s personal staff.

Consideration of possible registration requirements in respect of those classes of persons listed above apart from members of Parliament will be dealt with in the Committee’s final report.

¹ See page 69 in evidence.

² See pages 1 and 2 in evidence.

³ See page 29 in evidence.

PART A

8. *A Register for Members of Parliament*

Existing Provisions Relative to Disclosure of Interests

8.1 Present provisions relating to pecuniary interests—Legislative Council and Legislative Assembly:

8.1.1 *Standing Order No. 126 in the Legislative Council*

“No member shall be entitled to vote in any Division upon a Question in which he has a direct pecuniary interest not in common with the rest of Her Majesty’s subjects and on a matter of State Policy, and the vote of any member so interested shall be disallowed.”

8.1.2 *Standing Order No. 204 in the Legislative Assembly*

“No member shall be entitled to vote in any Division upon a Question in which he has a direct pecuniary interest, and the vote of any member so interested shall be disallowed.”

8.1.3 *Sections 13, 17B and 26D of the Constitution Act No. 32 of 1902*

8.2 In so far as the Legislative Council is concerned, Standing Order No. 126 was adopted by the Council in 1895 and evidence was heard that since that time the following instances are the only two on record:—

8.2.1 On 16 June, 1931, just prior to the House resolving itself into a Committee of the Whole to consider the B.A.W.R.A. Income Tax (Declaratory) Bill, which was to make subject to State income tax certain payments made by the British—Australian Wool Realisation Association Limited to growers of wool resident in New South Wales, and also subject certain share certificates, etc., to income tax, the President, Sir John Peden, was asked whether, according to parliamentary procedure, members who had a direct pecuniary interest in the measure, not in common with the rest of His Majesty’s subjects, were entitled in the terms of the Standing Order, to vote, also if he would distinguish between this and ordinary methods of taxation. The President stated that in the first place it was an abstract question. In the second place the matter was not a point of order and could only be raised by substantive motion.

8.2.2. On 18 March, 1964, during the debate on the Dentists (Amendment) Bill, a member of the Council, Sir Asher Joel stated—

“For the past 18 years I have had a professional association with the Australian Dental Association. Therefore, it might be said that I have some personal interest in this matter. Despite this, I believe that my remarks may not be altogether palatable either to the executive of the association or to some honourable members of this House. However, I believe that I should state my views and, as I have a personal interest in the matter, I do not propose to vote on this important measure.”

8.3 The Clerk of the Parliaments gave evidence that on the one occasion in his experience where personal or pecuniary interest had been involved in the question before the Chair, the member, of his own volition, left the Chamber when the vote was taken.

8.4 In so far as Standing Order No. 204 in the Legislative Assembly is concerned, this Standing Order was adopted in 1894, although the question of pecuniary interests was then not a new problem for the Assembly.

8.5 In 1862, claims had been made that votes of certain members should be disallowed in Divisions on matters then before the House. In 1876, when the House relied solely on the law of Parliament, Mr Speaker Allen said—

“The question submitted to him was of a mixed nature involving law and fact. On the former only would it be proper for him to speak. A personal interest in a question disqualified a member from voting, but this must be a direct pecuniary interest, separately belonging to the person whose votes are questioned, and not in common with the public, or on a matter of government policy.”

8.6 Mr Speaker’s statement expresses the principle followed in the House of Commons, and that same principle has been followed in the Legislative Assembly up to the present. In the last Session of the Parliament it was claimed that the votes of five members in a Division should be disallowed on the grounds of personal interest. The Speaker was of the opinion, based on the ruling given by Speaker Abbott in the House of Commons in 1811, that the personal interest in question was not—

“a direct pecuniary interest and separately belonging to the persons whose votes were questioned, but a matter of State policy”

clearly within the meaning of Speaker Abbott’s ruling.

8.7 The Committee found that the provisions of section 13, 17B and 26D of the Constitution Act of 1902 were inadequate, and did not overcome the problem of declaration of interests, which interestingly enough corresponds with the view taken by the Federal Joint Committee when examining the provisions of section 44 (v) of the Commonwealth Constitution.

9. *The Position as Regards a Registration System in Other Parliaments*

9.1 *Federal Parliament of Australia*

A register was recommended by the Joint Committee on Pecuniary Interests of Members in 1975. No steps have been taken by the Australian Parliament to implement the recommendations.

9.2 *House of Commons*

On 22 May, 1974, the House agreed to two resolutions, namely:

- (a) That, in any debate or proceeding of the House or its committees or transactions or communications which a member may have with other members or with Ministers or servants of the Crown, he shall disclose any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, that he may have had, may have or may be expecting to have.
- (b) That every member of the House of Commons shall furnish to a Registrar of Members' Interests such particulars of his registrable interests as shall be required, and shall notify to the Registrar any alterations which may occur therein, and the Registrar shall cause these particulars to be entered in a Register of Members' Interests which shall be available for inspection by the public.

At the same time the House agreed to the appointment of a Select Committee with Terms of Reference almost identical to this Committee's.

A Register was duly published on 28 November, 1975, and is still being maintained. It is published from time to time as a House of Commons Paper available through the Stationery Office.

9.3 *United States of America*

Strict new provisions were introduced in 1977 relating to financial disclosure, outside income, acceptance of gifts, unofficial office accounts, certain aspects of the franking privilege and travel for members of the House of Representatives and the Senate. Members are required to file financial disclosure statements with the respective Houses.

9.4 *Legislative Assembly of Saskatchewan, Canada*

Members are required to file a statement under oath within 2 months of election to the Clerk of the Assembly showing details of any involvements with government contracts and company memberships in respect of both himself or his spouse.

9.5 *New Zealand House of Representatives*

No register in operation, however, on 25 October, 1956, the Ministers Private Interests Committee recommended the acceptance of certain basic principles which should be observed by Holders of Ministerial Office Under the Crown in the Reconciliation of Their Public Duties and Private Interests (*see Annexure 2*).

9.6 *Parliament of New Guinea*

The Constitutional Planning Committee made certain recommendations relative to a Leadership Code which were generally adopted by the House in 1974. Basically, Members are required to complete an exhaustive statement of their interests for transmission to the Ombudsman Commission (under section 4 of the Organic Law on the Duties and Responsibility). The statement covers the spouse and all children who are under the age of 18 years.

9.7 *Victorian Parliament*

In 1974, a recommendation for a Code of Conduct was made in a Progress Report of a Select Committee on Conflicts of Interests of members of Parliament. The Committee agreed to four basic principles for members and the adoption of the principles established in Annexure 2 relative to New Zealand Ministers of the Crown. At the same time the Committee concluded its Progress Report by stating that the question of a register of members' private interests required further examination. No action has been taken in Victoria by either the adoption of the Code of Conduct or re-establishing the Committee which became defunct because of prorogation.

9.8 *Parliaments of Western Australia, South Australia, Tasmania and Queensland.*

No registers are in existence in respect of the abovementioned Parliaments.

10. *Members' Views*

10.1 The Committee considered it necessary to obtain the views of members of both Houses of Parliament and 159 questionnaires were circulated to members in the initial stages of the inquiry. The Committee members refrained from completing a questionnaire. 103 questionnaires were returned and details of the answers given by members who favoured a registration system and who completed all the questionnaire are shown in Annexure 1.

11. *Administrative Requirements*

11.1 Evidence was put before the Committee that there would be certain administrative problems connected with the establishment of a register for members. But, given the necessary staff these problems could be overcome provided that separate registers in respect of the Legislative Council and Legislative Assembly were to be established.

11.2 If a register were introduced it would be imperative for the responsible authority in charge of the register to be made aware in clear terms of the criteria for granting access to the information contained in the register so as to ensure that a person had a justifiable claim to view the register.

11.3 Considerable argument on the question of access to a register was advanced and the Committee could not deny the merits of those, who although in the minority, favoured an "open-register" along the lines of the House of Commons register which is published periodically and is available as a House of Commons Paper through the Stationery Office. However, extensive views to the contrary were expressed, particularly on two main grounds:

11.3.1 Invasion of privacy.

11.3.2 It would need to be continually updated and should not be accessible merely to someone with malicious intent who wanted access merely for the sake of access.

11.4 It was of interest to the Committee to ascertain from the House of Commons how its register was functioning. In this regard advice was received, and it is of particular importance to the Committee, that one member of the House of Commons refused to register. When this report went to print the matter had not been finalized and there appeared to be some problem as to how the member would be finally dealt with.

12. *Widening the Scope of a Register to Encompass Member's Family and others*

12.1 One of the barriers to a register is the question of the desirability of members' spouses and relatives being required to register also and here one witness¹ said—

"To require disclosure by members and not spouses and dependants would be unrealistic and perhaps self-defeating. If a member accepts the glare of public life he should be expected to reveal the pecuniary interests of his family as a unit because of the general and acceptable practice of disseminating wealth and income through a spouse and dependants for taxation and probate purposes."

12.2 It could easily be supposed on the other hand, that a member might not necessarily be aware of his spouse's interests such as investments and no doubt critics of a register would say that women, merely because they are married to members of Parliament, should not have their privacy invaded unjustly.

12.3 The House of Commons Committee considered this question very closely and decided that where a member has knowledge about shareholdings of his spouse or infant children in a company where he himself has a holding, he should register them as his own for they come within the proposed definition of a registrable interest. This provision, however, is exceptional and it only concerns the member's own relationship to the company and he is not required to register his relatives' interests as such. The House of Commons Committee regarded the disclosure of interests of spouses and children as an unnecessary invasion of privacy.

¹ See page 28 in evidence.

12.4 It would be clearly contrary to the spirit of a register for a member to avoid registration requirements by transferring interests to a spouse or other close relative although there would appear to be no barrier to a member should he deem it necessary to disclose any particular interest held by his wife or family.

12.5 Another matter which confronted the Committee was the question of whether candidates for parliamentary office should be required to register if sitting members are required to do so, and in this regard some would argue that it would be an anomaly if candidates were exempted from registration requirements. By way of corollary, favour could be found with the argument that if a register is strictly and properly controlled particularly as regards access, members would not be placed at a disadvantage.

SUMMARY AND CONCLUSIONS

1. In this summary the Committee does not intend to traverse the many arguments submitted both for and against a registration system as these have been dealt with in the earlier stages of the report.

2. The problem of conflict of interests is certainly not a simple one and there can be no easy solution that will be acceptable to all. Whatever recommendations are made no doubt there will be those who maintain that a register is unworkable and unnecessary and others who claim that a register would not go far enough.

3. In answer to these critics the Committee in formulating its recommendations has assessed the evidence so far put before it and has given due weight to the many persuasive arguments and criticisms which have been levelled at the concept of a register.

4. Had the Committee considered that the existing provisions under the Standing Orders were satisfactory as regards the declaration of pecuniary interest the need to introduce a register would not have been so demanding. However, the Committee firmly believes that it has established in paragraph 8 of the report that the existing safeguards do not effectively overcome the problem of the disclosure of the "pecuniary interests or other benefits" of members.

5. Of prime importance to the Committee is that the image of the institution of Parliament must be upheld. It is essential that those who are entrusted with the administration of public affairs should be capable of being seen by the electorate at large to maintain conduct of an unimpeachable order.

6. The arguments submitted against the concept of a register are in the Committee's opinion less important than establishing a register having as its main purpose the facility of enabling the public to attach due weight to the decisions taken by the members in the light of their pecuniary interests or other benefits. In addition the register should be a safeguard of a member's own character and reputation.

7. The Committee considers that the establishment of an effective registration system would require some degree of flexibility in its operation to meet with changing situations. Such a system would be the most practical and acceptable method of dealing with the declaration of pecuniary interests.

8. Unlike the Committees in the Federal Parliament and the House of Commons set up with similar terms of reference this Committee made a broad definition of "pecuniary interest or other benefit" and believes that the onus should be placed on members to interpret the interests or benefits they consider should be entered on a register.

9. In placing the onus on members the Committee does so confident in the knowledge that members are competent to exercise their judgment and will ultimately be guided by the intent of a register and a formal Code of Conduct to be adopted by Parliament.

RECOMMENDATIONS

Members of Parliament

1. Each member of Parliament should be required to disclose in a register details of—

(a) any interest capable of producing a benefit of a financial or material nature and,

(b) any benefit however received,

which he considers could influence him in the discharge of his duties or responsibilities and in conformity with any Code of Conduct adopted by Parliament.

2. That separate registers be maintained in respect of the Legislative Council and the Legislative Assembly.

3. Obviously difficulties over the interpretation of interests will arise in the initial stages of the operation of the register and for this reason a Joint Standing Committee upon Pecuniary Interests should be appointed not only to deal with the problems as they arise but to generally supervise the operation of the register.

4. That access to the information disclosed in the register only be permitted after establishing to the satisfaction of the registrar and the Joint Standing Committee upon Pecuniary Interests that a *bona fide* reason exists for such access.

5. That the Clerk of the Parliaments and the Clerk of the Legislative Assembly should be the registrar of the respective registers and should have the responsibility of compiling and maintaining them.

6. The Joint Standing Committee upon Pecuniary Interests be entrusted with the responsibility of drafting a suitable and meaningful Code of Conduct for submission to Parliament.

7. Members should furnish the information in the form of a statutory declaration at the commencement of every Parliament or in the case of new members upon taking their seat in Parliament to the registrar who will act on the instructions of the Committee as well as under the Resolutions of the House.

8. Members to be notified in writing immediately by the registrar when an access request has been received. The member shall be given seven days in which to reply to such notification by the registrar.

9. That the register be kept in loose leaf form and members be required to notify the registrar of any changes when they are known by the member to have occurred.

10. The decision of the Joint Standing Committee upon Pecuniary Interests in cases where access is opposed will be final and there will be no right of appeal.

11. Members will be expected to comply with registration requirements or face the prospect of disciplinary action by the respective Houses.

12. The Joint Standing Committee be entrusted with the responsibility of making such recommendations to the Standing Orders Committee in respect of Standing Orders 204 in the Legislative Assembly and 126 in the Legislative Council which will ensure that interpretation of these orders takes cognizance of relevant factors contained in this report.

K. O'CONNELL, Chairman.

Committee Room, 29 November, 1977.

ANNEXURE 1

Question 1—Do you consider that a register of pecuniary interests should be introduced?

Sixty-four members favoured a register and thirty-nine answered in the negative.

Question 2—If a register should be established, how should it be compiled and maintained?

Thirty-two members favoured the idea that the Clerks of the Parliament should be responsible whilst the remaining members suggested the following:

- 6 members—no suggestion at all.
- 6 members—similar lines as in the House of Commons, i.e., Permanent Joint Committee.
- 3 members—Ombudsman.
- 4 members—task for Committee to decide.
- 2 members—Premier's Department.
- 1 member—Attorney-General.
- 2 members—Corporate Affairs Commission.
- 1 member—Independent authority.
- 1 member—Each Minister/Head of Department.
- 6 members—By way of statutory declaration or returns on an annual basis, with alterations to the register as interests vary.

Question 3—What classes of pecuniary interest or other benefit should be disclosed?

Answers to the question naturally varied to a marked degree, however, listed hereunder are the suggestions which were favoured by the majority of members:

- shares;
- property;
- company interests;
- sources of interest over \$1,000;
- retaining fees;
- sources of income for member and spouse;
- direct personal interests;
- benefits from office, e.g., unions;
- all memberships of political and/or semi-political parties or pressure groups;
- membership and office in any trade union or employer association;
- overseas visits when cost not borne by member or public funds;
- gambling interests;
- income from law practice, etc.;
- debentures, Treasury Bills;
- contents of safety deposit boxes and/or insurance policies.

Question 4—Should access be permitted to the information disclosed and, if so, what arrangement should be made to facilitate such access?

Of the sixty-four members supporting the establishment of a register, only fourteen felt that the public should have unrestricted access to the information.

Sixteen members were of the view that access to the public should be denied and information only made available to other members of Parliament.

Two members considered that the procedure adopted in the House of Commons is satisfactory, i.e., periodic publication of register in House of Commons paper available through Stationery Office.

The remaining thirty-two members were of the view that the public had a right of access only for good and sufficient reason and only with the express approval of the authority responsible for compiling and maintaining the register.

Question 5—What classes of person (if any) other than members of Parliament should be required to declare their pecuniary interests?

Two members declined to comment and seventeen indicated that the register should be restricted to members of Parliament only.

Forty-five members favoured a register for other classes of persons besides members and listed hereunder are their suggestions with the numbers in support of the suggestion indicated:

- Aldermen and Councillors of Local Government—(13).
- Permanent Heads and senior Public Servants (Statutory Office holders)—(27).
- Members of Judiciary—(11).
- Superintendents and Inspectors of Police—(1).
- Political Party Secretaries—(2).
- Political Candidates—(1).
- Union Secretaries—(1).
- Town Clerk, Sydney—(1).
- Estate Agents—(1).
- Family of Members—(9).
- Personal Staffs of Ministers—(1).
- Council Engineers—(2).
- Company Directors—(1).
- All Public Servants Receiving Salary in excess of Members of Legislative Assembly—(3).

Question 6—If other classes of person are to be required to declare their pecuniary interests, should the arrangements with respect to a register, the types of interests to be declared, and access thereto, be the same as is recommended with respect to members of Parliament?

Forty-three members answered in the affirmative. Twenty-one members declined to comment.

Listed hereunder are the views of six members who made special comment in relation to this question:

“Declaration of interests by those other than parliamentarians should be confidential and only viewed by interested persons after a hearing before a member of the judiciary.”

“Should be greater right to privacy for public officials—perhaps could be handled by a permanent Committee of Parliament, e.g., Commonwealth Public Accounts Committee.”

“A special register similar to that adopted in U.K.”

“Access to register should be limited to relevant Minister, permanent head, senior public servant and the Public Service Board.”

“No, the mayor or shire president should keep the register.”

“Yes, except that the register pertaining to public servants, etc., should be kept by Public Service Board and Department of Local Government should maintain register for local government aldermen and employees.”

ANNEXURE 2

A. Basic Principles—(Holders of Ministerial Office in New Zealand Parliament)

1. A Minister must ensure that no conflict exists, or appears to exist, between his public duty and his private interests.

This principle should be observed by a Minister in the arrangement of his private affairs on assuming office under the Crown, and while he continues to hold office he should not allow a situation to arise in which his personal or private interests interfere with the proper performance of the duties of his office.

In the application of the principle the conflict of interest must be sufficiently direct and substantial to exert or appear to be likely to exert an influence on the impartial performance of public duties.

2. A Minister of the Crown is expected to devote his time and his talents to the carrying out of his public duties.

Subject to reasonable reservations for personal affairs and family life a Minister should give his attention to the carrying out of the duties of his office without the distraction of other active or competing interests.

*B. The Application of the Principles**Directorships*

(1) A Minister should, on assuming office, resign any directorship in a public or private company, where either of the basic principles apply.

Shareholdings

(2) A Minister is entitled to retain shares held by him in incorporated companies on assuming office or to invest in shares while a Minister. He should dispose of shares in any company where the basic principle of conflict of interest applies.

(3) A Minister should avoid speculative investments in securities where he has, or may be thought to have, early or confidential information likely to affect the price of those shares.

Professional Practice

(4) A Minister who, prior to assuming office under the Crown, was engaged in professional practice, should cease to carry on the daily routine work of the firm or to take an active part in its ordinary business. He should not be required, however, to dissolve his partnership or to allow his annual practising certificate to lapse, nor should he be precluded from continuing to advise in matters of family trusts, guardianships and similar matters of a personal nature.

Personal Business Interests

(5) A Minister who, prior to assuming office under the Crown, was engaged in the conduct of his own business whether alone, in partnership, or as an incorporated company, should cease to carry on the daily routine work of the business or to take an active part in its day-to-day management. Subject to the application of the basic principles he should not be required to dispose of his business.

Disclosure of Interests

(6) A private or personal interest properly retained should be disclosed in Cabinet if any matter of public business coming up for consideration impinges upon it and the Minister should not take part in the discussion or be a party to the decision on that matter.

Qualifications of Minister

(7) Subject to the observance of the above principles it is not only proper, but desirable in the public interest that Ministers should be allocated the portfolios which they are best qualified by their background and experience to administer.

Observance of Principles

(8) The principles set out above are not rules of law. They have the force of rules of propriety to the extent that they set the standard which Parliament and the people expect a Minister of the Crown to observe.

**EXTRACT FROM THE VOTES AND PROCEEDINGS
OF THE LEGISLATIVE ASSEMBLY**

Entry No. 6, Votes and Proceedings No. 11, 15 September, 1976

PECUNIARY INTERESTS.—Mr Wran moved, pursuant to Notice—

(1) That a joint committee be set up to inquire into and report whether arrangements should be made relative to the disclosure of members' interests and the registration thereof, and in particular—

(a) what classes of pecuniary interest or other benefit are to be so disclosed;

(b) how the register should be compiled and maintained and what arrangements should be made for public access thereto; and

(c) what classes of person (if any) other than members of Parliament ought to be required to register—

and to make recommendations upon these and any other matters which are relevant thereto.

(2) That such committee consist of eight members of the Legislative Assembly and three members of the Legislative Council.

(3) That Mr Dowd, Mr Freudenstein, Mr Keane, Mr Kearns, Mr O'Connell, Mr Quinn, Mr Sheahan and Mr Viney be the members of the Legislative Assembly.

(4) That the committee have leave to sit during the sittings or any adjournment of either or both Houses and to make visits of inspection within the State of New South Wales, other States of Australia and the Australian Capital Territory. Sir Eric Willis moved, That the Question be amended by leaving out the words "(a) what classes of pecuniary interest or other benefit are to be so disclosed;" with a view of inserting the words "(a) what classes of interest, pecuniary or otherwise, or other benefit are to be so disclosed;"—instead thereof.

Question proposed—That the words proposed to be left out stand part of the Question.

Debate continued.

Question put.

The House divided.

Ayes, 48

Mr Akister	Mr Flaherty	Mr Paciullo
Mr Bannon	Mr Gordon	Mr Petersen
Mr Barnier	Mr Haigh	Mr Quinn
Mr Bedford	Mr Hills	Mr Renshaw
Mr Booth	Mr Jackson	Mr Rogan
Mr Brereton	Mr Jensen	Mr Ryan
Mr Cahill	Mr Johnson	Mr Sheahan
Mr Cleary	Mr Johnstone	Mr K. J. Stewart
Mr R. J. Clough	Mr Jones	Mr F. J. Walker
Mr Cox	Mr Keane	Mr Whelan
Mr Crabtree	Mr Kearns	Mr Wilde
Mr Day	Mr McGowan	Mr Wran
Mr Degen	Mr Maher	
Mr Durick	Mr Mallam	<i>Tellers,</i>
Mr Einfeld	Mr Mulock	Mr Hunter
Mr Face	Mr Neilly	Mr Ramsay
Mr Ferguson	Mr O'Connell	

Noes, 46

Mr Arblaster	Mr Freudenstein	Mr Pickard
Mr Barraclough	Mr Griffith	Mr Punch
Mr Boyd	Mr Hatton	Mr Rofe
Mr Brewer	Mr Healey	Mr Rozzoli
Mr Brown	Mr Leitch	Mr Schipp
Mr Bruxner	Mr McDonald	Mr Taylor
Mr Cameron	Mr McGinty	Mr Viney
Mr Clough	Mr Mackie	Mr Walker
Mr Coleman	Mr Maddison	Mr Webster
Mr Cowan	Mr Mason	Mr West
Mr Darby	Mrs Meillon	Sir Eric Willis
Mr Dowd	Mr Moore	Mr Wotton
Mr Doyle	Mr Murray	
Mr Duncan	Mr Mutton	<i>Tellers,</i>
Mr Fischer	Mr Osborne	Mr Jackett
Mr Fisher	Mr Park	Mr Singleton

And so it was resolved in the affirmative.

Original Question put and passed.

On motion of Mr Wran, the following Message sent to the Legislative Council—

Mr PRESIDENT—

The Legislative Assembly has this day agreed to the following Resolution—

(1) *That a joint committee be set up to inquire into and report whether arrangements should be made relative to the disclosure of members' interests and the registration thereof, and in particular—*

(a) *what classes of pecuniary interest or other benefit are to be so disclosed;*

(b) *how the register should be compiled and maintained and what arrangements should be made for public access thereto; and*

(c) *what classes of person (if any) other than members of Parliament ought to be required to register and to make recommendations upon these and any other matters which are relevant thereto.*

(2) *That such committee consist of eight members of the Legislative Assembly and three members of the Legislative Council.*

(3) *That Mr Dowd, Mr Freudenstein, Mr Keane, Mr Kearns, Mr O'Connell, Mr Quinn, Mr Sheahan and Mr Viney be the members of the Legislative Assembly.*

(4) *That the committee have leave to sit during the sittings or any adjournment of either or both Houses and to make visits of inspection within the State of New South Wales, other States of Australia and the Australian Capital Territory.*

And the Assembly requests that the Legislative Council will appoint three of its members to serve with the members of the Legislative Assembly upon such joint committee.

Legislative Assembly Chamber,

Sydney, 15 September, 1976.

**EXTRACT FROM THE VOTES AND PROCEEDINGS
OF THE LEGISLATIVE COUNCIL**

Entry No. 6, Votes and Proceedings No. 10, 28 September, 1976

MESSAGES FROM THE LEGISLATIVE ASSEMBLY.—The President reported and read the following Messages from the Legislative Assembly:

(1) Pecuniary Interests—Proposed Joint Committee—

Mr PRESIDENT—

The Legislative Assembly has this day agreed to the following Resolution—

(1) *That a Joint Committee be set up to inquire into and report whether arrangements should be made relative to the disclosure of Members' interests and the registration thereof, and in particular—*

(a) *what classes of pecuniary interest or other benefit are to be so disclosed;*

(b) *how the Register should be compiled and maintained and what arrangements should be made for public access thereto; and*

(c) *what classes of person (if any) other than Members of Parliament ought to be required to register and to make recommendations upon these and any other matters which are relevant thereto.*

(2) *That such committee consist of eight Members of the Legislative Assembly and three Members of the Legislative Council.*

(3) *That Mr Dowd, Mr Freudenstein, Mr Keane, Mr Kearns, Mr O'Connell, Mr Quinn, Mr Sheahan and Mr Viney be the Members of the Legislative Assembly.*

(4) *That the committee have leave to sit during the sittings or any adjournment of either or both Houses and to make visits of inspection within the State of New South Wales, other States of Australia and the Australian Capital Territory.*

And the Assembly requests that the Legislative Council will appoint three of its Members to serve with the Members of the Legislative Assembly upon such Joint Committee.

*Legislative Assembly Chamber,
Sydney, 15 September, 1976.*

L. B. KELLY,
Speaker.

Ordered, on motion of Mr Landa, That consideration of the Legislative Assembly's Message stand an Order of the Day for next Sitting Day.

Entry No. 7, Votes and Proceedings No. 11, 29 September, 1976

PECUNIARY INTERESTS (*Assembly's Message proposing Joint Committee*).—Upon the Order of the Day being read Mr Landa moved—

That this House agrees to the Resolution embodied in the Legislative Assembly's Message of 15 September, 1976, relating to the appointment of a Joint Committee to inquire into and report whether arrangements should be made relative to the disclosure of Members' interests and the registration thereof.

(2) That the representatives of the Legislative Council on the Joint Committee be the Honourable Sir Asher Joel, the Honourable R. G. Melville and the Honourable J. S. Thompson, and fixes Tuesday, 5 October, 1976, at 3.30 p.m. in the Assembly Committee Room No. 1 as the time and place for the first meeting.

Sir John Fuller moved that the Question be amended by the omission of all words after the word "That" at the beginning of the first paragraph of the motion, with a view to the insertion in lieu thereof of the following words—
"this House agrees to paragraphs one, three and four of the Resolution embodied in the Legislative Assembly's Message of 15 September, 1976, relating to the appointment of a Joint Committee to inquire into and report whether arrangements should be made relative to the disclosure of Members' interests and the registration thereof."

This House also resolves that should this Committee be comprised of eight Members of the Legislative Assembly—

(1) That such Committee should be comprised of seven Members of the Legislative Council.

(2) That the representatives of the Legislative Council be the Honourable C. J. Cahill, the Honourable S. L. M. Eskill, the Honourable Sir Asher Joel, the Honourable W. L. Lange, the Honourable H. J. McPherson, the Honourable R. G. Melville and the Honourable J. S. Thompson, and fixes Tuesday, 5 October, 1976, at 3.30 p.m. in the Assembly Committee Room No. 1 as the time and place for the first meeting.

(3) That, on this occasion, the Council agrees to waive its claim to equal representation on the Joint Committee and requests that its action in so doing should not be drawn into a precedent.

However, should the Legislative Assembly be concerned at the size of the proposed Committee, the Legislative Council would not object to the Assembly suggesting a Joint Committee to consist of five members of the Legislative Assembly and four members of the Legislative Council to be nominated by the respective Houses."

Debate ensued.

Question—That the words proposed to be omitted stand part of the Question—put and negatived.

Question then—That the words proposed to be inserted be so inserted—put and passed.

Question then—That this House agrees to paragraphs one, three and four of the Resolution embodied in the Legislative Assembly's Message of 15 September, 1976, relating to the appointment of a Joint Committee to inquire into and report whether arrangements should be made relative to the disclosure of Members' interests and the registration thereof.

This House also resolves that should this Committee be comprised of eight Members of the Legislative Assembly—

(1) That such Committee should be comprised of seven Members of the Legislative Council.

(2) That the representatives of the Legislative Council be the Honourable C. J. Cahill, the Honourable S. L. M. Eskill, the Honourable Sir Asher Joel, the Honourable W. L. Lange, the Honourable H. J. McPherson, the Honourable R. G. Melville and the Honourable J. S. Thompson, and fixes Tuesday, 5 October, 1976, at 3.30 p.m. in the Assembly Committee Room No. 1 as the time and place for the first meeting.

(3) That, on this occasion, the Council agrees to waive its claim to equal representation on the Joint Committee and requests that its action in so doing should not be drawn into a precedent.

However, should the Legislative Assembly be concerned at the size of the proposed Committee, the Legislative Council would not object to the Assembly suggesting a Joint Committee to consist of five Members of the Legislative Assembly and four Members of the Legislative Council to be nominated by the respective Houses—put and passed.

Whereupon Mr Landa moved, That the following Message be forwarded to the Legislative Assembly:

MR SPEAKER—

The Legislative Council, having had under consideration the Legislative Assembly's Message dated 15 September, 1976, agrees to paragraphs one, three and four of the Resolution embodied therein relating to the appointment of a Joint Committee to inquire into and report whether arrangements should be made relative to the disclosure of Members' interests and the registration thereof.

The Legislative Council also resolved that should this Committee be comprised of eight Members of the Legislative Assembly—

- (1) That such Committee should be comprised of seven Members of the Legislative Council.
- (2) That the representatives of the Legislative Council be the Honourable C. J. Cahill, the Honourable S. L. M. Eskill, the Honourable Sir Asher Joel, the Honourable W. L. Lange, the Honourable H. J. McPherson, the Honourable R. G. Melville and the Honourable J. S. Thompson, and fixes Tuesday, 5 October, 1976, at 3.30 p.m. in the Assembly Committee Room No. 1 as the time and place for the first meeting.
- (3) That, on this occasion, the Council agrees to waive its claim to equal representation on the Joint Committee and requests that its action in so doing should not be drawn into a precedent.

However, should the Legislative Assembly be concerned at the size of the proposed Committee, the Legislative Council would not object to the Assembly suggesting a Joint Committee to consist of five Members of the Legislative Assembly and four Members of the Legislative Council to be nominated by the respective Houses.

Legislative Council Chamber,

Sydney, 29 September, 1976.

Question put and passed.

**EXTRACT FROM THE VOTES AND PROCEEDINGS
OF THE
LEGISLATIVE ASSEMBLY**

Entry No. 17, Votes and Proceedings No. 14, 29 September, 1976

PECUNIARY INTERESTS.—Mr Speaker reported the following Message from the Legislative Council:

Mr SPEAKER—

The Legislative Council, having had under consideration the Legislative Assembly's Message dated 15 September, 1976, agrees to paragraphs one, three and four of the Resolution embodied therein relating to the appointment of a Joint Committee to inquire into and report whether arrangements should be made relative to the disclosure of Members' interests and the registration thereof.

The Legislative Council also resolved that should this Committee be comprised of eight Members of the Legislative Assembly—

- (1) That such Committee should be comprised of seven Members of the Legislative Council.
- (2) That the representatives of the Legislative Council be the Honourable C. J. Cahill, the Honourable S. L. M. Eskell, the Honourable Sir Asher Joel, the Honourable W. L. Lange, the Honourable H. J. McPherson, the Honourable R. G. Melville and the Honourable J. S. Thompson, and fixes Tuesday, 5 October, 1976, at 3.30 p.m. in the Assembly Committee Room No. 1 as the time and place for the first meeting.
- (3) That, on this occasion, the Council agrees to waive its claim to equal representation on the Joint Committee and requests that its action in so doing should not be drawn into a precedent.

However, should the Legislative Assembly be concerned at the size of the proposed Committee, the Legislative Council would not object to the Assembly suggesting a Joint Committee to consist of five Members of the Legislative Assembly and four Members of the Legislative Council to be nominated by the respective Houses.

*Legislative Council Chamber,
Sydney, 29 September, 1976.*

*HARRY BUDD,
President.*

Ordered, on motion of Mr F. J. Walker, That consideration of the Legislative Council's Message stand an Order of the Day for To-morrow.

Entry No. 9, Votes and Proceedings No. 15, 30 September, 1976

PECUNIARY INTERESTS.—The Order of the Day having been read, Mr Wran moved, That the following Message be sent to the Legislative Council:

Mr PRESIDENT—

The Legislative Assembly has this day taken into consideration the Legislative Council's Message of 29 September, 1976, relating to the appointment of a Joint Committee to inquire into and report whether arrangements should be made relative to the disclosure of members' interests and the registration thereof and agrees to paragraphs numbered (1) and (2).

*Legislative Assembly Chamber,
Sydney, 30 September, 1976.*

Debate ensued.

Question put and passed.

**EXTRACT FROM THE VOTES AND PROCEEDINGS
OF THE
LEGISLATIVE COUNCIL**

Entry No. 4 (12) Votes and Proceedings No. 12, 30 September, 1976

PECUNIARY INTERESTS—Joint Committee—

Mr PRESIDENT—

The Legislative Assembly has this day taken into consideration the Legislative Council's Message of 29 September, 1976, relating to the appointment of a Joint Committee to inquire into and report whether arrangements should be made relative to the disclosure of members' interests and the registration thereof and agrees to paragraphs numbered (1) and (2).

*Legislative Assembly Chamber,
Sydney, 30 September, 1976.*

*L. B. KELLY,
Speaker.*

**PROCEEDINGS OF THE JOINT COMMITTEE OF THE LEGISLATIVE
COUNCIL AND LEGISLATIVE ASSEMBLY UPON
PECUNIARY INTERESTS**

TUESDAY, 5 OCTOBER, 1976

At Parliament House, Sydney, at 3.30 p.m.

MEMBERS PRESENT:

Legislative Council

Mr C. J. CAHILL	Mr McPHERSON
Mr ESKELL	Mr MELVILLE
Sir ASHER JOEL	Mr THOMPSON
Mr LANGE	

Legislative Assembly

Mr DOWD	Mr O'CONNELL
Mr FREUDENSTEIN	Mr QUINN
Mr KEANE	Mr SHEAHAN
Mr KEARNS	Mr VINEY

The following entries in the Votes and Proceedings of the Legislative Assembly and the Minutes of the Proceedings of the Legislative Council were read by the Clerk:

Legislative Assembly—

Entry No. 6, Votes and Proceedings No. 11, of Wednesday, 15 September, 1976.

Entry No. 17, Votes and Proceedings No. 14, of Wednesday, 29 September, 1976.

Entry No. 9, Votes and Proceedings No. 15, of Thursday, 30 September, 1976.

Legislative Council—

Entry No. 6, Minutes of Proceedings No. 10, of Tuesday, 28 September, 1976.

Entry No. 7, Minutes of Proceedings No. 11, of Wednesday, 29 September, 1976.

Entry No. 4 (12), Minutes of Proceedings No. 12, of Thursday, 30 September, 1976.

On the motion of Mr Keane, seconded by Sir Asher Joel, Mr O'Connell was called to the Chair and thereupon made his acknowledgments to the Committee.

Resolved, on the motion of Mr Viney, seconded by Mr Kearns: That arrangements for the calling of witnesses and visits of inspection be left in the hands of the Chairman and the Clerk of the Committee.

Resolved, on the motion of Mr Melville, seconded by Mr Sheahan: That, unless otherwise ordered, parties appearing before the Committee shall not be represented by any member of the legal profession.

Resolved, on the motion of Sir Asher Joel, seconded by Mr Viney: That, unless otherwise ordered, the press and the public (including witnesses after examination) be admitted to the sittings of the Committee.

Resolved, on the motion of Mr Cahill, seconded by Mr Keane: That departmental officers and/or specialists skilled in matters relating to pecuniary interests as referred to in the Terms of Reference may be invited to assist the Committee.

Resolved, on the motion of Mr Melville, seconded by Mr Freudenstein: That press statements concerning this Committee be made only by the Chairman.

Resolved, on the motion of Mr Quinn, seconded by Mr Viney: That, unless otherwise ordered, transcripts of evidence taken by the Committee be not made available to any person, body or organization: provided that witnesses previously examined shall be given a copy of their evidence.

Resolved, on the motion of Mr Viney, seconded by Mr Thompson: That the Chairman and the Clerk to the Committee be empowered to negotiate with the Treasurer for the provision of funds to meet expenses in connection with travel, accommodation, advertising and other approved incidental expenses of the Committee.

Resolved, on the motion of Mr Sheahan, seconded by Mr Eskill: That this Committee request the Treasurer to approve payment of the following:

- (1) A daily allowance to each member when he attends a meeting of the Committee on any day on which the House of which he is a member is not sitting, and for each day he is present at an official visit of inspection.
- (2) Air travel for visits of inspection when other modes of transport are impracticable.
- (3) Air travel between electoral districts or places of residence and Sydney for Mr Cahill, Mr Freudenstein, Mr Lange, Mr McPherson, Mr Melville and Mr Sheahan when necessary for the purpose of attending meetings of the Committee.

Resolved, on the motion of Mr Kearns, seconded by Mr Keane: That the Clerk be empowered to advertise and/or write to interested parties requesting written submissions within the Terms of Reference.

Resolved, on the motion of Mr Quinn, seconded by Mr Melville: That upon the calling of a division in either House, the proceedings of the Committee shall be suspended until the termination of the division and the return of members affected.

Resolved, on the motion of Mr Viney, seconded by Mr Melville: That the Premier be advised that the Committee is of opinion that it will not be able to function without secretarial/stenographic assistance and requests that employment of the same be approved.

The Committee deliberated.

Allowances to Members,—Agreed that allowances payable for attendance on non-sitting days and during visits of inspection be paid at the end of each calendar month.

Arrangements for Visits of Inspection,—Agreed that the Clerk will make arrangements for the Committee as a whole and that any member wishing to depart from such arrangements will be required to make his own.

Witnesses and Visits of Inspection,—Agreed that consideration of the calling of witnesses, taking evidence and making visits of inspection be deferred until after receipt of submissions.

Resolved, on the motion of Mr Dowd, seconded by Mr Eskill: That the under-mentioned documents or copies thereof be obtained by the Clerk for distribution to each member of the Committee—

- (a) Joint Committee on Pecuniary Interests of Members of Parliament—Report on Declaration of Interests (Parliament of the Commonwealth of Australia, 1975—Parliamentary Paper No. 182).
- (b) Report from the Select Committee on Members' Interests (Declaration)—House of Commons, Session 1974–75.
- (c) Register of Members' Interests as on 26th May, 1976—Edition No. 2 (House of Commons).
- (d) Article entitled "Members' Interests", by C. B. Winniffrith, an Acting Deputy Principal Clerk, House of Commons, published in *The Table*, Vol. XLIII for 1975; at pp. 30–35.

The Committee adjourned at 4.25 p.m. until Wednesday, 20 October, 1976, at 9 a.m.

WEDNESDAY, 20 OCTOBER, 1976

At Parliament House, Sydney, at 9 a.m.

MEMBERS PRESENT:

Mr K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Mr C. J. CAHILL	Mr McPHERSON
Mr ESKELL	Mr MELVILLE
Sir ASHER JOEL	Mr THOMPSON
Mr LANGE	

Legislative Assembly

Mr DOWD	Mr QUINN
Mr FREUDENSTEIN	Mr SHEAHAN
Mr KEANE	Mr VINEY
Mr O'CONNELL	

An apology was received from Mr Kearns.

The Minutes of the previous meeting, as circulated, were confirmed.

The Clerk reported on matters connected with the acquisition of publications to which his attention had been directed at the previous meeting.

The Chairman addressed the Committee and suggested that consideration should now be given to a study of item 1 of the Terms of Reference, with particular emphasis on subparagraph (c).

Debate ensued.

Resolved, on the motion of Mr Eskell, seconded by Mr Melville: That there be prepared for consideration at the next meeting a draft questionnaire suitable for circulation to all members of the New South Wales Parliament as to (a) whether or not a register of their pecuniary interests should be introduced and (b) incorporating various other questions appertaining to such a register.

Resolved, on the motion of Mr Viney, seconded by Mr Keane: That an advertisement promulgating the appointment of the Committee and inviting written submissions from individuals and organizations be inserted in such journals as may be decided upon by the Chairman—draft to be prepared and final format approved by the Chairman.

Mr Viney moved, seconded by Mr Quinn, That written submissions be invited from the permanent head of each New South Wales Government department, the Chairman of each New South Wales statutory authority, the Executive Member of the Privacy Committee, national secretaries of political parties and such other individuals or bodies as the Chairman may deem appropriate.

Debate ensued.

Question put and negatived.

The Committee deliberated.

The Committee adjourned at 10.10 a.m., *sine die*.

WEDNESDAY, 16 FEBRUARY, 1977

At Parliament House, Sydney, at 10 a.m.

MEMBERS PRESENT:

Mr K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Mr C. J. CAHILL	Mr McPHERSON
Mr ESKELL	Mr MELVILLE
Sir ASHER JOEL	Mr THOMPSON

Legislative Assembly

Mr DOWD	Mr O'CONNELL
Mr FREUDENSTEIN	Mr QUINN
Mr KEANE	Mr SHEAHAN
Mr KEARNS	Mr VINEY

An apology was received from Mr Lange.

The Minutes of the previous meeting, as circulated, were confirmed.

Resolved, on the motion of Mr Dowd, seconded by Mr Sheahan: That apologies be recorded for Sir Asher Joel, and Mr Thompson in respect of their absence at the meeting on 23rd November, 1976.

Resolved, on the motion of Mr Dowd, seconded by Mr Melville: That letters be sent to the Party Whips in the Legislative Assembly and Legislative Council drawing attention to outstanding Questionnaire forms.

Committee deliberated.

Resolved, on the motion of Sir Asher Joel, seconded by Mr Cahill: That such letter extend an invitation to Members who either favoured a register or otherwise to give evidence on either of the 3 days to be selected by the Committee for the next three meetings.

Resolved, on the motion of Mr Sheahan, seconded by Mr Keane: That the dates and times for the next three meetings of the Committee be 2.15 p.m. on Monday, 28 February; Monday, 14 March; and Monday, 28 March, 1977.

Resolved, on the motion of Mr Eskell, seconded by Mr Freudenstein: That the receipt of the completed questionnaires and submissions lodged by permanent heads of each Government Department, the Chairman of each New South Wales statutory authority and the Chairman of the New South Wales Public Service Board, be noted accordingly.

Evidence in public or in camera,—Agreed that those persons called to give evidence be given the opportunity of deciding whether they wished to have their evidence taken in camera or in public.

Amendment to Resolution—Letters to Party Whips. Resolved, on a motion of Mr Eskell and seconded by Sir Asher Joel: That in addition to the letters being sent to the Party Whips, a suitably phrased letter on similar lines be forwarded to the Independent member of the Legislative Assembly and that Party Whips be requested to nominate a spokesman for their respective parties to give evidence before the Committee.

Debate ensued.

Question put and passed.

Resolved, on the motion of Mr Sheahan, seconded by Mr McPherson: That suitable letters be forwarded to the permanent heads and Chairman of the various statutory authorities expressing the Committee's appreciation for their valuable assistance and indicating that the Committee may in the future impose upon their time to seek an expansion upon their submissions.

The Committee deliberated.

Resolved, on the motion of Mr Dowd, seconded by Mr Sheahan: That a further approach be made to the Premier seeking the provision of \$10,000 to meet the expenses of an advertising campaign.

The Committee deliberated.

Agreed: (i) that the Premier be advised that the Committee was unanimous in the view that any reduction in the amount sought for publicity would severely limit the activities and scope of its enquiries.

(ii) the communication to the Premier might include a schedule of advertising costs which was submitted by the Advertising Section of the Premier's Department prior to the initial approach being made to the Premier for funds.

Travelling Expenses—Agreed that those Committee members from country Electorates who are required to meet out-of-pocket expenses whilst journeying to Sydney for meetings on non-sitting days provide the Chairman with specific details.

Calling of Witnesses—Clerks of the Parliament—Agreed that the Committee Clerk obtain from the Clerk of the House of Representatives and Clerk of the Senate copies of the evidence provided by these officers to the Joint Committee On Pecuniary Interests of Members of the Federal Parliament.

Resolved, on the motion of Mr Keane, seconded by Mr Sheahan: That Mr J. M. Riordan, former Chairman of the Joint Committee On Pecuniary Interests of Members of the Federal Parliament be extended an invitation to attend a meeting of the Committee, preferably at one of the next three meeting days.

The Committee deliberated.

Venue for Meetings—Agreed that subject to the availability of the Public Works Room, future Committee meetings be held in that room when witnesses are required to give evidence.

Resolved, on the motion of Mr Eskell, seconded by Mr Keane: That sixteen satchel briefcases be purchased for the use of Committee members and the Clerk to the Committee.

The Committee adjourned at 11.40 a.m. until Monday, 28 February, 1977, at 2.15 p.m.

MONDAY, 28 FEBRUARY, 1977

At Parliament House, Sydney, at 2.30 p.m.

MEMBERS PRESENT:

Legislative Council

Mr ESKELL	Mr McPHERSON
Sir ASHER JOEL	Mr THOMPSON

Legislative Assembly

Mr DOWD	Mr O'CONNELL
Mr FREUDENSTEIN	Mr SHEAHAN
Mr KEANE	Mr VINEY
Mr KEARNS	

The Clerk informed the Committee that the Chairman was unavoidably absent.

Resolved, on the motion of Mr Viney, seconded by Sir Asher Joel: That Mr Kearns do take the Chair for this sitting during the unavoidable absence of Mr O'Connell.

Mr Kearns took the Chair.

Apologies were received from Messrs Cahill and Melville.

The Minutes of the previous meeting, as circulated, were confirmed.

Letters to Whips: Sir Asher Joel raised the question of whether the Clerk had received any response to the letters circulated to the Whips and the Clerk reported that notification had been received from the Country Party Whip that the Hon. J. C. Bruxner, M.L.A., would be appearing before the Committee at its next meeting on Monday, 14 March, 1977.

Mr Sheahan reported to the Committee that Mr Ryan, M.L.A., would be appearing before the Committee at a future date.

The press and public were admitted.

By direction of the Acting Chairman, the Clerk read the Committee's Terms of Reference.

By direction of the Acting Chairman, the Clerk read Legislative Assembly Standing Order No. 362 relating to the Examination of Witnesses.

Joseph Martin Riordan, Consultant, called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Mr O'Connell joined the Committee and took the Chair.

Evidence concluded, the witness withdrew.

The Committee adjourned at 4.43 p.m., until Monday, 14 March, 1977, at 2.15 p.m.

MONDAY, 14 MARCH, 1977

At Parliament House, Sydney, at 2.15 p.m.

MEMBERS PRESENT:

Mr K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Mr C. J. CAHILL	Mr McPHERSON
Mr ESKELL	Mr MELVILLE
Sir ASHER JOEL	Mr THOMPSON
Mr LANGE	

Legislative Assembly

Mr DOWD	Mr O'CONNELL
Mr FREUDENSTEIN	Mr QUINN
Mr KEANE	Mr SHEAHAN
Mr KEARNS	Mr VINEY

The Minutes of the previous meeting, as circulated, were confirmed.

Resolved, on the motion of Mr Viney, seconded by Mr Eskell: That an apology be recorded for Mr Lange in respect of his absence at the meeting on 28 February, 1977.

Printed Evidence: Mr Viney raised the question of printed evidence and the Clerk was instructed to confer with the Government Printer with a view to having evidence printed as quickly as possible.

The Committee deliberated.

The press and public were admitted.

By direction of the Chairman the Clerk read the Committee's Terms of Reference.

By direction of the Chairman the Clerk read Legislative Assembly Standing Order No. 362 relating to the Examination of Witnesses.

The Hon. J. C. Bruxner, M.L.A., called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

At the request of the Chairman the press and public withdrew.

Completed Questionnaires and Submissions lodged by Permanent Heads and Statutory Office Holders: Mr Kearns and Mr Sheahan were of the view that it would be of assistance to Committee Members if copies of the more detailed and informative submissions were circulated to Members and the Chairman indicated that both he and the Clerk would examine the questionnaires and submissions and take action to circulate the material to members.

The Committee deliberated.

Method adopted by Chairman of calling questions from Committee Members: Mr Quinn sought advice from the Chairman as to the method that might be adopted and followed a request by Mr Kearns, the Clerk again read Standing Order No. 362.

Agreed: That, depending on the length and type of submission made by witnesses, the Chairman use his discretion in calling for questions by Committee members.

The Committee adjourned at 3.47 p.m. until Monday, 28 March, 1977, at 2.15 p.m.

MONDAY, 28 MARCH, 1977

At Parliament House, Sydney, at 2.15 p.m.

MEMBERS PRESENT:

Mr K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Mr C. J. CAHILL	Mr McPHERSON
Mr ESKELL	Mr THOMPSON

Legislative Assembly

Mr DOWD	Mr O'CONNELL
Mr FREUDENSTEIN	Mr QUINN
Mr KEANE	Mr VINEY
Mr KEARNS	

Apologies were received from Sir Asher Joel, Mr Melville, Mr Lange and Mr Sheahan.

The Minutes of the previous meeting, as circulated, were confirmed.

The press and public were admitted.

By direction of the Chairman, the Clerk read the Committee's Terms of Reference.

By direction of the Chairman, the Clerk read Legislative Assembly Standing Order No. 362 relating to the examination of witnesses.

The Hon. John Clarkson Maddison, M.L.A., called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

At the request of the Chairman the press and public withdrew.

Advertisement to appear in news media: Resolved, on the motion of Mr Viney, seconded by Mr McPherson that the draft advertisement for inclusion in the news media was acceptable in its present form.

The Committee deliberated.

Resolved, on the motion of Mr Kearns, seconded by Mr Dowd: That the under-mentioned documents or copies thereof be obtained by the Clerk for distribution to each Member of the Committee—

- (a) Extract of Section 13 of the Constitution Act specifically including section 13 (4) relating to exemption provisions.
- (b) The text of Standing Order No. 204 in the Legislative Assembly and the corresponding Standing Order pertaining to the Legislative Council.
- (c) Extracts of Standing Orders relating to pecuniary interests in both the Senate and the House of Representatives.
- (d) A copy of the legislation passed by Congress in the U.S., March, 1977, following upon a proposal submitted by a special Congressional Commission relating to the limitation of outside income of Representatives.
- (e) An extract of the Coombes Report to the Royal Commission into the Commonwealth Public Service relating to pecuniary interests.

*Members Fees: Agreed—*That the Clerk would supply to Committee members details of fees earned from Committee meetings at the end of the financial year.

Appearance before Committee of a spokesman for the Labor Party: The Chairman reported that Mr K. Ryan, M.L.A., would be appearing before the Committee at its next meeting as spokesman for the Labor Party.

The Committee adjourned at 3.25 p.m. until Monday, 18 April, 1977, at 2.15 p.m.

WEDNESDAY, 4 MAY, 1977

At Parliament House, Sydney, at 2.15 p.m.

MEMBERS PRESENT:

Mr K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Mr ESKELL

Mr THOMPSON

Mr MELVILLE

Legislative Assembly

Mr FREUDENSTEIN

Mr QUINN

Mr KEARNS

Mr VINEY

Mr O'CONNELL

Mr SHEAHAN

At the request of the Chairman, the Committee members stood for two minutes silence following the passing away of the Hon. C. J. Cahill, M.L.C.

Apologies were received from Sir Asher Joel, Mr Lange, Mr McPherson, Mr Keane and Mr Dowd.

Minutes of the previous meeting, as circulated, were confirmed.

The press and public were admitted.

By direction of the Chairman, the Clerk read the Committee's Terms of Reference.

By direction of the Chairman, the Clerk read Legislative Assembly Standing Order No. 362 relating to the examination of witnesses.

Mr K. J. Ryan, M.L.A., called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

At the request of the Chairman the press and public withdrew.

At 3.15 p.m. Mr Eskell sought leave from the Chairman and the meeting lapsed through want of a quorum.

WEDNESDAY, 25 MAY, 1977

At Parliament House, Sydney, at 10 a.m.

MEMBERS PRESENT:

Mr K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Mr ESKELL	Mr MELVILLE
Mr LANGE	Mr THOMPSON
Mr McPHERSON	

Legislative Assembly

Mr FREUDENSTEIN	Mr SHEAHAN
Mr KEANE	Mr VINEY
Mr O'CONNELL	

Apologies were received from Sir Asher Joel, Mr Quinn, Mr Kearns and Mr Dowd.

Minutes of the previous meeting, as circulated, were confirmed.

The press and public were admitted.

By direction of the Chairman, the Clerk read the Committee's Terms of Reference.

By direction of the Chairman, the Clerk read Legislative Assembly Standing Order No. 362 relating to the Examination of Witnesses.

Mr R. E. Ward, Clerk of the Legislative Assembly called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

Mr A. W. B. Saxon, Clerk of the Parliaments called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

The Hon. F. N. Duncan, M.L.C. called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

Mr K. Smithers, C.B.E., Ombudsman called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

At the request of the Chairman, the press and public withdrew.

The Committee adjourned at 4 p.m. until Wednesday, 22 June, 1977.

WEDNESDAY, 22 JUNE, 1977

At Parliament House, Sydney, at 10 a.m.

MEMBERS PRESENT:

Legislative Council

Mr ESKELL	Mr McPHERSON
Sir ASHER JOEL	Mr MELVILLE
Mr LANGE	Mr THOMPSON

Legislative Assembly

Mr DOWD	Mr QUINN
Mr FREUDENSTEIN	Mr SHEAHAN
Mr O'CONNELL	Mr VINEY

The Clerk informed the Committee that the Chairman was unavoidably detained for approximately twenty minutes.

Resolved, on the motion of Mr Viney, seconded by Mr McPherson: That Mr Sheahan do take the Chair for this sitting during the unavoidable absence of Mr O'Connell.

Mr Sheahan took the Chair.

Apologies were received from Messrs Kearns and Keane.

The Minutes of the previous meeting, as circulated, were confirmed.

The press and public were admitted.

By direction of the Chairman, the Clerk read the Committee's Terms of Reference.

By direction of the Chairman, the Clerk read Legislative Assembly Standing Order No. 362 relating to the examination of witnesses.

Mr J. W. Davies, Deputy Chairman, N.S.W. Public Service Board, called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Mr O'Connell joined the Committee and took the Chair.

Evidence concluded, the witness withdrew.

Mr B. Porter, President, N.S.W. Branch, Australian Journalists' Association, called as a witness and sworn: The witness acknowledged having received a summons under Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

Mr W. Orme, Executive Member, Privacy Committee, called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

Sir Asher Joel and Mr Eskill sought leave to retire from the meeting which was accordingly granted.

At the request of the Chairman the press and public withdrew.

Attendance of Press—it was noted by the Committee that this was the first meeting at which the press attended.

Request for information from Mr B. Porter, President, N.S.W. Branch, Australian Journalists' Association: The Clerk was directed to write to Mr Porter explaining the provisions of the relative Standing Order in the Legislative Assembly pertaining to access to Parliament House by representatives of the news media and at the same time confirming certain questions asked by Mr Eskill relating to the Association's Code of Ethics.

The Committee deliberated.

Future Meetings—Agreed that the tentative date set down for the next meeting, viz., 6 July, 1977, be cancelled and that future meetings be held on 20 July, 1977, tentatively 27 July, 1977, and the afternoon of 3 August, 1977.

Absence of Mr Quinn overseas—Agreed that an apology be recorded for Mr Quinn in respect of his non-attendance at meetings held during his overseas visit.

The Committee adjourned at 4 p.m., until Wednesday, 20 July, 1977, at 10 a.m.

Meeting set down for Wednesday, 20 July, 1977, cancelled by direction of the Chairman.

WEDNESDAY, 27 JULY, 1977

At Parliament House, Sydney, at 10 a.m.

MEMBERS PRESENT:

Mr K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Mr ESKELL	Mr McPHERSON
Sir ASHER JOEL	Mr THOMPSON
Mr LANGE	

Legislative Assembly

Mr DOWD	Mr O'CONNELL
Mr FREUDENSTEIN	Mr SHEAHAN
Mr KEANE	Mr VINEY

Apologies were received from Messrs Kearns, Melville and Quinn.

The Minutes of the previous meeting, as circulated, were confirmed.

The press and public were admitted.

By direction of the Chairman, the Clerk read the Committee's Terms of Reference.

By direction of the Chairman, the Clerk read Legislative Assembly Standing Order No. 362 relating to the examination of witnesses.

Mr M. G. Engleheart, Assistant General Secretary of the Public Service Association of New South Wales, called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

Mr N. T. G. Miles, Secretary of the Local Government and Shires Associations of New South Wales, called as a witness and sworn: The witness acknowledged having received a summons under the Parliamentary Evidence Act, 1901.

Evidence concluded, the witness withdrew.

Tentative meeting set down for the afternoon of Wednesday, 3 August, 1977—Agreed that owing to the commitments of several members this meeting would be cancelled.

Code of Ethics operating in Victoria: Mr Sheahan reported that he had read in the press of a Code of Ethics which was operating in the Victorian Parliament and the Clerk was instructed to obtain details for the Committee.

The Committee adjourned at 12.25 p.m. until Wednesday, 10 August, 1977, at 10 a.m.

WEDNESDAY, 10 AUGUST, 1977

At Parliament House, Sydney, at 10 a.m.

MEMBERS PRESENT:

Mr K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Sir ASHER JOEL	Mr McPHERSON
Mr LANGE	Mr THOMPSON

Legislative Assembly

Mr KEANE	Mr SHEAHAN
Mr KEARNS	Mr VINEY
Mr O'CONNELL	

Apologies were received from Messrs Dowd, Eskill, Freudenstein and Quinn.

The Minutes of the previous meeting, as circulated, were confirmed.

Resolved, on the motion of Sir Asher Joel, seconded by Mr McPherson: That in view of the widespread publicity and the invitations which have been sent to interested parties to lodge submissions, the Committee should proceed with its deliberations but that the avenue should remain open for the Committee to receive further submissions and call future witnesses if deemed necessary.

The Committee adjourned at 10.50 a.m. until Thursday, 29 September, 1977, at 10 a.m.

THURSDAY, 29 SEPTEMBER, 1977

At Parliament House, Sydney, at 10 a.m.

MEMBERS PRESENT:

Mr K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Mr ESHELL

Mr LANGE

Sir ASHER JOEL

Mr THOMPSON

Legislative Assembly

Mr DOWD

Mr O'CONNELL

Mr KEANE

Mr QUINN

Mr KEARNS

Mr SHEAHAN

Apologies were received from Messrs Freudenstein, McPherson and Melville.

The Minutes of the previous meeting, as circulated, were confirmed.

The Committee deliberated upon a preliminary draft report.

The Committee adjourned at 1 p.m. until Friday, 14 October, 1977, at 10 a.m.

Meeting set down for Friday, 14th October, 1977, cancelled by direction of the Chairman.

MONDAY, 28 NOVEMBER, 1977

At Parliament House, Sydney, at 10 a.m.

MEMBERS PRESENT:

Mr K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Mr ESKELL	Mr McPHERSON
Sir ASHER JOEL	Mr MELVILLE
Mr LANGE	Mr THOMPSON

Legislative Assembly

Mr DOWD	Mr O'CONNELL
Mr FREUDENSTEIN	Mr QUINN
Mr KEANE	Mr SHEAHAN
Mr KEARNS	Mr VINEY

Confirmation of the minutes of the previous meeting deferred.

A copy of the Draft Progress Report, having been transmitted (by direction of the Chairman) to each member of the Committee, the Chairman brought up the Draft Report, which was accepted by the Committee as having been read.

The Committee proceeded to consider the Draft Progress Report.

Introduction

Paragraph 1.1 read and agreed to.
 Paragraph 1.2 read and agreed to.
 Paragraph 1.3 read and agreed to.
 Paragraph 1.4 read and agreed to.
 Paragraph 1.5 read and agreed to.
 Paragraph 1.6 read and amended.
 Paragraph, as amended, agreed to.
 Paragraph 1.7 read and agreed to.
 Paragraph 1.8 read and agreed to.
 Paragraph 1.9 read and agreed to.
 Paragraph 1.10 read and agreed to.
 Paragraph 1.11 read and amended.
 Paragraph, as amended, agreed to.
 Paragraph 1.12 read and agreed to.

Progress Report

Paragraph 2.1 read and agreed to.
 Paragraph 2.2 read and agreed to.
 Paragraph 2.3 read and agreed to.
 Paragraph 2.4 read and agreed to.
 Paragraph 2.5 read and agreed to.
 Paragraph 2.6 read and agreed to.
 Paragraph 3.1 read and agreed to.
 Paragraph 3.2 read and agreed to.
 Paragraph 3.3 read and agreed to.
 Paragraph 3.4 read and agreed to.
 Paragraph 3.5 read and agreed to.
 Paragraph 3.6 read and agreed to.
 Paragraph 3.7 read and agreed to.
 Paragraph 3.8 read and agreed to.
 Paragraph 3.9 read and agreed to.
 Paragraph 3.10 read and agreed to.
 Paragraph 3.11 read and agreed to.
 Paragraph 3.12 read and agreed to.
 Paragraph 3.13 read and agreed to.
 Paragraph 3.14 read and agreed to.
 Paragraph 4.1 read and agreed to.

Paragraph 4.2 read and agreed to.
Paragraph 4.3 read and agreed to.
Paragraph 4.4 read and agreed to.
Paragraph 4.5 read and agreed to.
Paragraph 4.6 read and agreed to.
Paragraph 4.7 read and agreed to.
Paragraph 4.8 read and agreed to.
Paragraph 4.9 read and agreed to.
Paragraph 4.10 read and agreed to.
Paragraph 4.11 read and agreed to.
Paragraph 4.12 read and agreed to.
Paragraph 5.1 read and agreed to.
Paragraph 5.2 read and agreed to.
Paragraph 5.3 read and agreed to.
Paragraph 5.4 read and agreed to.
Paragraph 6 read and amended.
Paragraph, as amended, agreed to.
Paragraph 7 read and agreed to.
Paragraph 8.1 read and agreed to.
Paragraph 8.2 read and amended.
Paragraph, as amended, agreed to.
Paragraph 8.3 read and agreed to.
Paragraph 8.4 read and agreed to.
Paragraph 8.5 read and agreed to.
Paragraph 8.6 read and agreed to.
Paragraph 8.7 read and agreed to.
Paragraph 9.1 read and agreed to.
Paragraph 9.2 read and agreed to.
Paragraph 9.3 read and agreed to.
Paragraph 9.4 read and agreed to.
Paragraph 9.5 read and agreed to.
Paragraph 9.6 read and agreed to.
Paragraph 9.7 read and agreed to.
Paragraph 9.8 read and agreed to.
Paragraph 10.1 read and agreed to.
Paragraph 11.1 read and agreed to.
Paragraph 11.2 read and agreed to.
Paragraph 11.3 read and agreed to.
Paragraph 11.4 read and agreed to.
Paragraph 12.1 read and agreed to.
Paragraph 12.2 read and agreed to.
Paragraph 12.3 read and agreed to.
Paragraph 12.4 read and amended.
Paragraph, as amended, agreed to.
Paragraph 12.5 read and agreed to.

Summary and Conclusions

Paragraph 1 read and amended.
Paragraph, as amended, agreed to.
Paragraph 2 read and amended.
Paragraph, as amended, agreed to.
Paragraph 3, read and amended.
Paragraph, as amended, agreed to.
Paragraph 4, read and agreed to.
Paragraph 5 read and amended.
Paragraph, as amended, agreed to.
Paragraph 6, read as follows:

“The arguments submitted against the concept of a register are in the Committee’s opinion less important than establishing a register having as its main purpose the facility of enabling the public to attach due weight to the decisions taken by the members in the light of their pecuniary interests or other benefits. In addition the register should be a safeguard of a member’s own character and reputation”.

Question proposed, That the paragraph stand.

Debate ensued.

Question put.

The Committee divided.

Ayes, 12

Noes, 1

Mr Eskell
Sir Asher Joel
Mr Lange
Mr McPherson
Mr Melville
Mr Thompson
Mr Freudenstein
Mr Keane
Mr Kearns
Mr Quinn
Mr Sheahan
Mr Viney

Mr Dowd

And so it was resolved in the affirmative.

Paragraph 7 read as follows:

“The Committee considers that the establishment of an effective registration system would require some degree of flexibility in its operation to meet with changing situations. Such a system would be the most practical and acceptable method of dealing with the declaration of pecuniary interests”.

Question proposed, That the paragraph stand.

Debate ensued.

Question put.

The Committee divided.

Ayes, 11

Noes, 2

Mr Eskell
Sir Asher Joel
Mr Lange
Mr McPherson
Mr Melville
Mr Thompson
Mr Keane
Mr Kearns
Mr Quinn
Mr Sheahan
Mr Viney

Mr Dowd
Mr Freudenstein

And so it was resolved in the affirmative.

Paragraph 8 read as follows:

“Unlike the Committee in the Federal Parliament and the House of Commons set up with similar terms of reference this Committee made a broad definition of “pecuniary interest or other benefit” and believes that the onus should be placed on members to interpret the interests or benefits they consider should be entered on a register”.

Question proposed, That the paragraph stand.

Debate ensued.

Question put.

The Committee divided.

Ayes, 12

Mr Eskell
 Sir Asher Joel
 Mr Lange
 Mr McPherson
 Mr Melville
 Mr Thompson
 Mr Freudenstein
 Mr Keane
 Mr Kearns
 Mr Quinn
 Mr Sheahan
 Mr Viney

Noes, 1

Mr Dowd

And so it was resolved in the affirmative.

Paragraph 9 read and amended.

Paragraph, as amended, agreed to.

At this stage Mr Dowd submitted to the Chairman a schedule of questions which he considered should be answered and included under "Summary and Conclusions" (See Annexure "A" to these Minutes).

Moved by Mr Melville, *seconded* by Mr Quinn: That Mr Dowd's submission be noted.

Recommendations

Paragraph 1 amended and read as follows:

"Each member of Parliament should be required to disclose in a register details of—

(a) any interest capable of producing a benefit of a financial or material nature; and

(b) any benefit however received, which he considers could influence him in the discharge of his duties or responsibilities and in conformity with any Code or Conduct adopted by Parliament".

Question proposed, That the paragraph as amended stand.

Debate ensued.

Question put.

The Committee divided.

Ayes, 11

Sir Asher Joel
 Mr Lange
 Mr McPherson
 Mr Melville
 Mr Thompson
 Mr Freudenstein
 Mr Keane
 Mr Kearns
 Mr Quinn
 Mr Sheahan
 Mr Viney

Noes, 1

Mr Dowd

And so it was resolved in the affirmative.

Paragraph 2 read and agreed to.

Paragraph 3 read and agreed to.

Paragraph 4 amended and read as follows:

"That access to the information disclosed in the register only be permitted after establishing to the satisfaction of the Registrar and the Joint Standing Committee upon Pecuniary Interests that a *bona fide* reason exists for such access."

Question proposed, That the paragraph as amended stand.

Debate ensued.

Question put.

The Committee divided.

Ayes, 11

Sir Asher Joel
 Mr Lange
 Mr McPherson
 Mr Melville
 Mr Thompson
 Mr Freudenstein
 Mr Keane
 Mr Kearns
 Mr Quinn
 Mr Sheahan
 Mr Viney

Noes, 1

Mr Dowd

And so it was resolved in the affirmative.

Paragraph 5 read and amended.

Paragraph, as amended, agreed to.

Paragraph 6 read and amended.

Paragraph 6, as amended, agreed to.

Paragraph 7 read and amended.

Paragraph, as amended, agreed to.

Paragraph 8 amended and read as follows:

“Members to be notified in writing immediately by the Registrar when an access request has been received. The member shall be given 7 days in which to reply to such notification by the Registrar.”

Question proposed, That the paragraph as amended stand.

Debate ensued.

Question put.

The Committee divided.

Ayes, 11

Mr Eskell
 Sir Asher Joel
 Mr Lange
 Mr McPherson
 Mr Melville
 Mr Thompson
 Mr Freudenstein
 Mr Keane
 Mr Kearns
 Mr Quinn
 Mr Sheahan
 Mr Viney

Noes, 1

Mr Dowd

And so it was resolved in the affirmative.

Paragraph 9 read and amended.

Paragraph, as amended, agreed to.

Paragraph 10 read and amended.

Paragraph, as amended, agreed to.

Paragraph 11 read and omitted.

Paragraph 12 read and amended.

Paragraph 12, as amended, agreed to—to stand as paragraph 11.

Paragraph 13 read and omitted.

Paragraph 14 read and agreed to—to stand as paragraph 12.

Messrs Dowd, Freudenstein and Viney protested at the early deliberation on the draft report and considered that the undue haste in tabling the Progress Report would reflect on the workings of the Committee.

Mr Dowd desired that a protest be also recorded for him at the actions of the Chairman in preparing the Draft Progress Report dealing only with the aspect of parliamentarians without the concurrence of the Committee as a whole.

The Committee adjourned at 1.25 p.m., until 10 a.m. on Tuesday, 6 December, 1977.

PARLIAMENTARY PECUNIARY INTERESTS COMMITTEE

Questions for determination:

A. *Members' Disclosures:*

- (1) If a register were to be established in relation to members of Parliament, should the obligation to disclose pecuniary interests involve interests other than pecuniary such as official position held?
- (2) If so, what should be disclosed?
- (3) Should a member be obliged to disclose the assets of his spouse and children. Should it include the assets of other members of his family?
- (4) Should the value and precise location (where appropriate) of assets be disclosed?

B. *Administration:*

- (1) By whom should a register be administered?
- (2) Should it be a public servant alone, or should it be supervised by a committee of the Parliament?
- (3) If a register affecting members is established, should the same register administer the register for any other person being obliged to disclose assets, such as financial journalists and heads of government departments?
- (4) With what frequency would members be obliged to update their assets situation?
- (5) What are the mechanics, if any, in the decision-making process to bring sanctions against a member who breaches the obligation to register?

C. *Sanctions:*

- (1) What penalties, if any, are to be invoked against a member who fails to:
 - (a) disclose assets, or (b) fails to update assets?
- (2) What penalties will be imposed on a member of any supervising committee who discloses information or a Public Service administrator who discloses such information?
- (3) What is the obligation of an administering officer or a member of a supervisory committee who is aware of a member's failure to disclose an interest to the House on any matter arising in the proceedings of the Parliament?

D. *Access:*

- (1) Should the members of the public have access to the register?
- (2) What criteria should be established to entitle them to the register?
- (3) Should other members have access to the register?
- (4) Who should decide whether the criteria as to access have been complied with?
- (5) What sanctions, if any, should be invoked against any improper use of information obtained?

E. *Codes System as Against Register:*

- (1) What are the advantages and disadvantages of one system as against another?
- (2) What sanctions should be used in respect of a member breaching a code?
- (3) How would that code be administered?
- (4) Who would administer that code?

TUESDAY, 29 NOVEMBER, 1977

At Parliament House, Sydney, at 7.45 p.m.

MEMBERS PRESENT:

K. O'CONNELL, M.L.A. (in the Chair)

Legislative Council

Mr LANGE

Mr McPHERSON

Mr MELVILLE

Legislative Assembly

Mr FREUDENSTEIN

Mr QUINN

Mr KEANE

Mr SHEAHAN

Mr KEARNS

Mr VINEY

Mr O'CONNELL

Apologies were received from Sir Asher Joel, Messrs Eskell, Thompson and Dowd.

The Minutes of the meetings held on 29 September, 1977, and 28 November, 1977, as circulated, were confirmed.

Question—That the Draft Progress Report, as amended and agreed to, be the Progress Report of the Committee—put and passed.

Progress Report—The Chairman, in the presence of the Committee, signed the Committee's Progress Report.

Resolved, on the motion of Mr Lange, seconded by Mr Melville that the Progress Report be tabled in the Legislative Assembly by the Chairman and in the Legislative Council by Mr McPherson on behalf of the Chairman.

LIST OF WITNESSES*Individuals and/or Organizations*

- Australian Journalists Association (N.S.W. Branch) Mr B. Porter, President.
Parliamentary Country Party of N.S.W. (Hon. J. C. Bruxner, M.L.A.).
Duncan, The Hon. F. N., M.L.C.
Parliamentary Labor Party of N.S.W. (Mr K. J. Ryan, M.L.A.).
Parliamentary Liberal Party of N.S.W. (Hon. J. C. Maddison, M.L.A.).
Local Government and Shires Associations of N.S.W. (Mr N. T. G. Miles).
Privacy Committee (Mr W. J. Orme, Executive Member).
Public Service Association of N.S.W. (Mr M. G. Engleheart, Assistant General Secretary).
Public Service Board of N.S.W. (Mr J. W. Davies, Deputy Chairman).
Riordan, J. M.
Saxon, A. W. B., Clerk of the Parliaments.
Smithers, K., C.B.E. (The Ombudsman).
Ward, R. E., Clerk of the Legislative Assembly.
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