

COMMITTEE OF PRIVILEGES

ELEVENTH LOK SABHA

REPORT ON ETHICS, STANDARDS IN PUBLIC LIFE, PRIVILEGES, FACILITIES TO MEMBERS AND OTHER RELATED MATTERS



LOK SABHA SECRETARIAT
NEW DELHI

November, 1997/Kartika, 1919 (Saka)

COMMITTEE OF PRIVILEGES

(ELEVENTH LOK SABHA)

REPORT
ON
ETHICS, STANDARDS IN PUBLIC LIFE,
PRIVILEGES, FACILITIES TO MEMBERS
AND OTHER RELATED MATTERS



LOK SABHA SECRETARIAT
1997

L.B. (I) No. 106

© 1997 BY LOK SABHA SECRETARIAT

Published under Rule 382 of the Rules of Procedure and Conduct of Business in Lok Sabha (Eighth Edition) and Printed by the Manager, Government of India Press, (Photo Litho Unit), Minto Road, New Delhi.

PREFACE

A Study Group of the Committee of Privileges was constituted on 31 January, 1997 for undertaking a study of parliamentary privileges, ethics and related matters.

2. The Study Group had visited Australia, United Kingdom and United States of America to study the position obtaining in these countries regarding matters pertaining to ethics and standards of conduct of Members, etc.

3. The Study Group held seven sittings. At its last sitting held on 1 October, 1997, the Study Group finalised its Report covering, in detail the various facets of parliamentary privileges and, more particularly, the ethical matters.

4. The Report of the Study Group was placed before the Committee of Privileges for its consideration at its sitting held on 14 October, 1997.

The Committee of Privileges also meanwhile, attended the Symposium of the Presiding Officers of Legislative Bodies on the 'Need for Constitution of Ethics Committees in Legislatures in India' held at Shimla on 1 October, 1997 and participated in its deliberations.

5. The Committee of Privileges, while considering the Report of the Study Group made certain amendments, particularly in the Conclusions/Recommendations portion of the Report.

The two main amendments to the Study Group's Report made by the Committee are as under:—

- (i) Instead of constituting a Sub-Committee of the Committee on Ethics and Privileges for exclusively dealing with ethics related matters, all such matters may be dealt with by the Committee on Ethics and Privileges itself.
- (ii) Cases of ethics related matters may be exclusively dealt with by the Committee on Ethics and Privileges. The Lokpal may be empowered to deal only with the complaints against Members which fall under the provision of the Prevention of Corruption Act, 1988.

6. In its second sitting held on 7 November, 1997, the Committee of Privileges after due deliberation, adopted the Report of the Study Group of the Committee of Privileges as amended.

NEW DELHI;
7 November, 1997

DR. MALLIKARJUN,
Chairman,
Committee of Privileges.

Kartika 16, 1919 (Saka)

CONTENTS

	PAGE
COMPOSITION OF THE STUDY GROUP	(v)
INTRODUCTION	(vii)

PART A

ETHICS, STANDARDS AND OBLIGATIONS

I. USA	1
II. UK	14

CORRIGENDA TO THE REPORT OF THE COMMITTEE OF PRIVILEGES ON ETHICS & RELATED MATTERS

Page	Line	for	Read
6	Footnote	For us	Forms
7	1 (from top)	Restriction of	Restrictions on
8	10	Newt	Newt
8	12	Newyt	Newt
9	16 (from top)	Decemebr	December
10	14 (from top)	August, 1995	August, 1996
19	12 (from bottom)	recent part	recent past
41	3 (from bottom)	sitting	sifting
46	16 (from top)	dealt with is	dealt with in
47	19 (from bottom)	dae of	date of

65	17 (from top)	fare	fore
65	20 (from top)	must	most
65	20 (from top)	mengers	merger
65	23 (from top)	rustilication	justification
65	20 (from bottom)	fer	for
65	19 (from bottom)	certaione ventvalities	certain eventualities
66	16 (from bottom)	17	21
68	2 (from bottom)	where	whether
69	14 (from bottom)	Sub-Committee	Committee
70	7 (from top)	funtions	functionaries

CONTENTS

	PAGE
COMPOSITION OF THE STUDY GROUP.....	(v)
INTRODUCTION	(vii)
PART A	
ETHICS, STANDARDS AND OBLIGATIONS	
I. USA	1
II. UK.....	14
III. Australia and New South Wales	29
IV. Aspects of Conduct/Standards in India	39
PART B	
PRIVILEGES/FACILITIES	
V. Privileges in USA, UK and Australia	49
VI. Privileges & Facilities in India.....	54
PART C	
CONCLUSIONS/RECOMMENDATIONS.....	61
EXCUSES.....	74
APPENDICES.....	77

PERSONNEL OF THE COMMITTEE OF PRIVILEGES
(ELEVENTH LOK SABHA)

Dr. Mallikarjun – *Chairman*

MEMBERS

2. Shri Syed Masudal Hossain
3. Shri Satya Pal Jain
4. Shri A.C. Jos
5. Shri P. Kodandaramaiah
6. Shri Sat Mahajan
7. Shri Vishambhar Prasad Nishad
8. Shri Manharan Lal Pandey
9. Shri Prahlad Singh Patel
10. Shri Bhagwan Shanker Rawat
11. Shri Madhukar Sirpotdar
12. Shri M. Selvarasu
- *13. Shri N.V.N. Somu
14. Shrimati Sushma Swaraj
15. Shri P. Upendra

SECRETARIAT

Shri G.C. Malhotra – **Additional Secretary**
Shri V.K. Sharma – **Deputy Secretary**
Shri Ravindra Garimella – **Assistant Director**

* Died on 14 November, 1997.

**COMPOSITION OF THE STUDY GROUP AND THE INDIAN
PARLIAMENTARIANS TEAM TO
AUSTRALIA, U.K. AND U.S.A.
[JUNE-JULY, 1997]**

CONVENOR

Shri P. Upendra

Congress

MEMBERS

- | | |
|--------------------------------------|------------|
| 2. Shri Syed Masudal Hossain | C.P.I.(M) |
| 3. Shri A.C. Jos* | Congress |
| 4. Shri Sat Mahajan | Congress |
| 5. Shri P. Kodanda Ramaiah | Janata Dal |
| 6. Shri Bhagwan Shanker Rawat | B.J.P. |
| 7. Shri Madhukar Raghunath Sirpotdar | Shiv Sena |
| 8. Smt. Sushma Swaraj* | B.J.P. |

SECRETARY

9. Shri G.C. Malhotra, Additional Secretary,
Lok Sabha Secretariat

* Joined the Study Tour to U.K. and U.S.A. only

INTRODUCTION

The credibility of a democratic institution like the Parliament and impeccable integrity of its Members are imperative for the success of any democracy. Hence the relevance of Ethics and Code of Conduct and Standards for legislators and other public officials. In a mature democracy like ours recent initiatives in this direction are but logical.

Position in India

2. In India neither a definite Code of Conduct nor the aspects of Standards for Members of Parliament or State Legislatures have been laid down so far. Nevertheless, in order to maintain the highest traditions in parliamentary life, Members of Parliament are expected to observe a certain standard of conduct, both inside the House as well as outside. It is precisely for this reason that while there is a Committee of Privileges to inquire into cases of breach of privileges of the House and its Members, the House is empowered to appoint, from time to time, ad-hoc committees to consider and investigate the conduct of a Member of the House and to find out whether such conduct was derogatory to the dignity of the House and inconsistent with the standards expected of Members. In 1951, the Committee on the Conduct of Member, in the context of allegations of misconduct against a Member (Shri H.G. Mudgal), laid down a procedure for inquiry into the conduct of a Member. Besides, there are various provisions in the Rules of Procedure and Conduct of Business in Lok Sabha for ensuring decorous and dignified conduct of Members.

3. In the Rajya Sabha a Committee on Ethics has since been constituted under the Chairmanship of Shri S.B. Chavan, MP. The Committee consists of eight other members. The Committee's remit is 'to oversee the moral and ethical conduct of the members and to examine the cases referred to it with reference to ethical and other misconduct of members.

4. In the Lok Sabha it, in a way, the Committee of Privileges which took the initiative for preliminary ground work in the matter.

5. The Committee of Privileges (Eleventh Lok Sabha), comprising fifteen members, was constituted by the Speaker, Lok Sabha on 13 September, 1996 with Dr. Mallikarjun as its Chairman.

6. The Committee, during their initial deliberations, decided to take a wider perspective and deliberated upon the ambit and scope of parliamentary privileges, obligations and responsibilities of Members. The Committee took a view that the whole gamut of parliamentary privileges and related matters needed a review for upholding the pride and prestige of Parliament and its Members.

Study Group of the Committee of Privileges

7. On 31 January, 1997, the Chairman of the Privileges Committee, Dr. Mallikarjun, constituted a Study Group of seven members of the Committee, with Shri P. Upendra as Convenor, and Sarvashri Bhagwan Shanker Rawat, P. Kodandaramaiah, Madhukar Sirpoddar, Syed Masudal Hossain, Shrimati Sushma Swaraj, and Shri Sat Mahajan as Members, to undertake a study of parliamentary privileges, ethics and related matters. Shri A.C. Jos, MP was subsequently nominated to the Study Group as its eighth member.

The Study Group undertook a comprehensive study of not only the privileges and rights but also responsibilities and obligations of Members, thereby bringing the study within the realm of Ethics and Code of Conduct.

Study Group's preliminary deliberations

8. During the preliminary deliberations, the Study Group felt that while the basic precepts of parliamentary privileges are well settled in almost all Parliaments, it is not so in case of matters relating to Ethics and Code of Conduct. Barring the Parliaments of the United States of America and United Kingdom, the aspects relating to Ethics and Code of Conduct have perhaps not been well laid out in most Commonwealth and other Parliaments. The Study Group also took note of some recent endeavours in this respect in the Parliament of the Commonwealth of Australia and the Legislature of the New South Wales State.

Proposal for Study Visits

9. At the sitting of the Study Group, held on 30 May, 1997, it was proposed that the Group might undertake Study Visits to Australia, United Kingdom and the United States of America for an interaction with the relevant committees in particular and Members of Parliament in general.

10. Hon'ble Speaker gave his approval to the proposed Study Visits, on 2 June 1997.

The Study Group met various parliamentarians and parliamentary functionaries and had indepth discussions with them on the subject of their study.

Study Visits

11. The Study Group, accordingly, visited Australia, United Kingdom and United States of America in June-July 1997.*

* Programmes may be seen at Annexures I & II

12. The Report of the Study Group is in three parts as indicated below.

Part A—Ethics, Standards and Obligations

In this part, an account of political structures/parliamentary systems and an appraisal by the Study Group of the position regarding Ethics/Code of Conduct obtaining in the said three countries has been given.

There is also a brief chapter on the aspects of Conduct/Standards for legislators in India.

Part B—Privileges/Facilities

In this part, there is an account of the basic precepts of parliamentary privileges in USA, UK and Australia and a brief critique on the subject, as presently obtaining in India.

Part C—Conclusions/Recommendations

PART A
ETHICS, STANDARDS AND OBLIGATIONS
CHAPTER I
UNITED STATES OF AMERICA

Political Structure

1.1 The USA is a federal republic. Each of the 50 States and the District of Columbia exercise a measure of internal self-government. The President is the head of the executive and is elected for a four-year term by an electoral college directly elected from each State. The President appoints the other members of the executive, subject to the consent of the Senate.

1.2 The Constitution of the United States of America was adopted on 4 March, 1789.

1.3 Political parties are the basis of the American political system. At the national level, the United States enjoy's a two-party system that has remained remarkably durable throughout the nation's history, even though rival national parties have appeared and disappeared from the political scene. Today, the Democratic Party, which traces its origins back to the nation's third President Thomas Jefferson, and the Republican Party, founded in 1854, continue to dominate politics at the federal, state and local levels.

The Congress

1.4 The US Parliament, referred to as Congress, is a bicameral body. The Congress consists of the Senate and the House of Representatives.

1.5 Members of the Congress are all directly elected, on the basis of simple plurality of vote.

1.6 The Senate is composed of 100 Senators, elected on the basis of two senators for each of the country's 50 States. Each Senator enjoys a term of six years. One-third of the Senators are chosen every two years in such manner that, in each State, both Senators are not normally standing for election at the same time. The Vice-President of the country is the ex-officio Presiding Officer of the Senate. In his absence, a President *pro-tempore* is elected by the Senate or someone designated by the Vice-President, presides.

1.7 The House of Representatives is composed of 435 members elected for two years from each of the 50 States in such manner that each Member represents roughly the same number of citizens provided that each State has at least one representative. The Speaker, chosen by the House, is its

Presiding Officer with a Clerk of the House to assist him. The number of representatives of each State in Congress is determined on the basis of the State's population.

Ethics / Code of Conduct

1.8 The United States Congress has been the pioneer in the area of Ethics and Code of Conduct-related issues. The Senate has the "Select Committee on Ethics", while the House of Representatives has the "Committee on Standards and Official Conduct". Over the years, these two Committees have come up with well laid out concepts on 'Ethics/Standards/Code of Conduct.'

Senate Select Committee on Ethics

Genesis

1.9 In 1964, in the wake of the Bobby Baker Scandal, the Senate adopted Statutory Resolution 338, (88th Congress) creating w.e.f. 24 July, 1964, the Senate Select Committee on Standards and Conduct. The Committee was empowered with advisory functions and investigative authority to "receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of laws and violations of rules and regulation of the Senate."

Code of Conduct

1.10 In 1968, the Senate adopted its first Code of Official Conduct, which was substantially revised in 1977.

Select Committee on Ethics

The name of the Select Committee on Standards and Conduct was changed to Select Committee on Ethics in 1977. The Rules of Procedure of the Select Committee were adopted on 23 February, 1978 and revised in April 1997. The bipartisan Committee, which has six members, three from each party, is authorised to oversee the Senate's self-discipline authority provided by the Constitution, Article 1, Section 5, which states in part that:

"Each House may determine the rules of its proceedings, punish its Members for disorderly behaviour, and with the concurrence of two-thirds, expel a Member."

The Committee is authorised to:

(1) receive complaints and investigate allegations of improper conduct which may reflect upon the Senate, violations of law, violations of the Senate Code of Official Conduct, and violations of rules and regulations of the Senate, relating to the conduct of

individuals in the performance of their duties as Members of the Senate, or as officers or employees of the Senate, and to make appropriate findings of fact and conclusions with respect thereto;

- (2) recommend, when appropriate, disciplinary action against Members and staff;
- (3) recommend rules or regulations necessary to ensure appropriate Senate standards of conduct;
- (4) report violations of any law to the proper Federal and State authorities;
- (5) regulate the use of the franking privilege in the Senate.
- (6) investigate unauthorised disclosures of intelligence information;
- (7) implement the Senate public financial disclosure requirements of the Ethics in Government Act;
- (8) regulate the receipt and disposition of gifts from foreign governments, received by Members, officers and employees of the Senate;
- (9) render advisory opinions on the application of Senate rules and laws to Members, officers and employees; and
- (10) for complaints filed under the Government Employee Rights Act of 1991 respecting conduct occurring prior to January 23, 1996, review, upon request, any decision of the Senate Office of Fair Employment Practice."

1.11 The Committee may investigate allegations brought by Members, officers, or employees of the Senate, or by any other individual or group, or the Committee may initiate an inquiry on its own. There are no formal procedural requirements for filing a complaint with the Committee. Unless the Committee issues a public statement relating to a particular inquiry, complaints and allegations are treated confidentially, and the Committee neither confirms nor denies that particular matter may be before the Committee. Upon completion of its investigative process, the Committee may recommend to the Senate or party conference an appropriate sanction for a violation or improper conduct, including, for Senators, censure, expulsion, or party disciplin~~g~~ and, for staff members, termination of employment.

House Committee on Standards of Official conduct

Genesis

1.12 The first recorded instance of the House of Representatives attempting to take disciplinary action against a Member occurred in 1798. This related to a Member's spatting upon another. Despite a written apology, the Committee of the Whole heard the evidence and recommended expulsion of the erring Member. The vote, however, fell

two short of the two-thirds majority necessary to expel the concerned Member.

From 1798 until 1967, the House undertook disciplinary action against 7 Members over twenty-five times. There was, however, no standardized approach. The offences ranged from duelling to inserting obscene material in the Congressional Record. Some cases were handled directly on the floor of the House without Committee action, others through the creation of select investigating Committees.

Select Committee on Standards & Ethics

1.13 In the late 1940s' and early 1950's, there began an advocacy for enactment of financial disclosure requirements and rules of conduct. In 1958, the Code of Ethics for Government Service was approved. In 1964, following the investigation of Bobby Baker, Secretary to the Majority in the Senate, the Senate created a Select Committee on Standards of Conduct.

Subsequent developments

1.14 During the 89th Congress, two different events led to the creation of the House Committee on Standards of Official Conduct. In 1965, the Joint Committee on the Organization of Congress held hearings in which considerable testimony addressed the ethical conduct of Members, the need for code of conduct and financial disclosure regulations and need for an Ethics Committee. In its final report, the Joint Committee's recommendations included the creation of a House Committee on Standards and Conduct.

1.15 The other event involved an investigation by the Special Subcommittee on Contracts of the Committee on House Administration into the expenditures of the Committee on Education and Labour and the conduct of its Chairman, Representative Adam Clayton Powell, Jr., of New York. The Sub-committee's report concluded that the Chairman and certain employees had deceived House authorities as to travel expenses and also noted strong evidence that the Chairman had directed certain illegal salary payments to his wife. No formal action was taken during the 89th Congress against Representative Powell. However, he was removed from the Chairmanship, then excluded from the 90th Congress. In the 91st Congress, he was denied his seniority and fined.

1.16 Against this backdrop, a Select Committee on Standards and Conduct was established towards the end of the 89th Congress. The Select Committee's authority was limited to (i) recommending additional rules or regulations to ensure that Members, officers, and employees of the House adhere to proper standards of conduct in the discharge of their official duties; and (ii) reporting violations of any law to the proper Federal and State authorities.

Committee on Standards of Official Conduct

1.17 On April 13, 1967, the House established the Committee on Standards of Official Conduct, to be composed of six members of the majority party and six members of the minority party. The Committee was directed to recommend such changes in laws, rules, and regulations as necessary to establish and to enforce standards of official conduct for Members, officers and employees. One year later, the House Rules were amended to include a Code of Conduct (Rule 43) and an annual financial disclosure requirement (Rule 44). At the same time, the Committee was made a permanent standing committee with authority to investigate alleged violations of the Code and to issue advisory opinions interpreting its provisions.

Other ad hoc groups

1.18 Three *ad hoc* groups have greatly influenced the Committee's work: the Commission on Administrative Review (generally known as the Obey Commission), the Select Committee on Ethics and the Bipartisan Task Force on Ethics.

Obey Commission

1.19 The Obey Commission was established in July 1976 and directed to make recommendations to the House concerning ethical practices, financial accountability and administrative operations of the House. These recommendations were set forth in a report entitled Financial Ethics and a Resolution (H. Res. 287). The House's adoption, on March 2, 1977 of H. Res. 287 changed the House rule governing financial disclosure, outside earned income, acceptance of gifts, unofficial office accounts franking privileges and travel. The Commission also recommended the creation of a select committee with legislative jurisdiction over these areas.

Select Committee on Ethics

1.20 Following the Commission's recommendation, the House established the Select Committee on Ethics in March 1977 to provide guidelines and interpretations concerning House Rules 43, 44, 45, 46 and 47 and to report legislation. The Select Committee and the Committee on Standards of Official Conduct operated simultaneously, with different jurisdictions. During the two years of the Select Committee's existence, it issued 13 formal advisory opinions interpreting the new House rules and recommended that House rules 44 (financial disclosure) and 46 (franking) be enacted into law, which occurred in 1978. When the Select Committee completed its task, it issued a Final Report. Thereupon, the Select Committee's records and materials were transferred to the Committee on Standards of Official Conduct to assist the latter in rendering advisory opinions and interpreting House rules relating to financial ethics and standards of conduct.

Bipartisan Task Force on Ethics

1.21 On February 2, 1989, the Speaker and the Republican Leader of the 101st Congress appointed a Bipartisan Task Force on Ethics to conduct a comprehensive review of House ethics rules and regulations. The Task Force looked anew at the rules concerning gifts, honorarium, outside earned income, financial disclosure, and the use of official resources, as well as considering issues relating to Ethics Committee procedures and the compensation of Members and other senior Government officials. After four public hearings and much internal study, the Task Force issued a report and a Bill, H.R. 3660. This Bill became the Ethics Reform Act of 1989, signed into law on November 30, 1989. The Ethics Reform Act stipulated a total ban on honorarium, revisions to the outside earned income limits, new post-employment restrictions, changes to the gift and travel limits, and financial disclosure revisions.¹

Applicable Standards of Conduct in US Congress

1.22 Particulars of certain important provisions in the Senate Code of Conduct and related laws are as under:—

- (1) *Financial Disclosures*—these Provisions are applicable to Members, Officers, Political Fund Designers and certain employees. The Financial disclosure has to include, payments in lieu of honoraria, assets and income (earned and unearned), transactions, liabilities, gifts travel reimbursements, outside positions and agreements.

The Annual Public Financial Disclosure Reports, pertaining to the previous calendar year, have to be filed by 15 May of every year. New employee reports have to be filed within 30 days of assuming a filing position.

The Reports must also include information regarding spouse and dependent children generally.

[The relevant provisions are contained in Senate Rule 34 and Title I of Ethics in Government Act].

Restrictions on Outside employment

These provisions are applicable to three categories of persons.

Category one Senate Members, Officers and Employees. It is stipulated that (a) outside activities may not conflict with an individual's official duties. (b) all outside employment by employees must be approved by the supervising Senator.

Category two Members, Officers and employees compensated at a rate above \$25,000 and employed for more than 90 days.

Affiliation with outside business organisations for purpose of providing compensated professional services has been prohibited. Further (a) use of name by an entity providing professional services; (b) individual's serving as an officer or board member of a publicity held or regulated business organisation have been prohibited.

¹ Ethics in Government Act—Financial disclosures statement for 1994—for us A & B may be seen at Appendices I & II.

Category three: Restrictions of Members, officers and certain category of employees

Outside earned income has been limited to 15% of Member's salary level. Further—(a) provision of compensated professional services involving a fiduciary relationship; (b) compensation for affiliating with an organisation which provides professional services; (c) paid service as an officer or board member of *any* Organisation—have been prohibited.

[The relevant provisions have been contained in Senate Rules 36 and 37].

Post employment restrictions

These restrictions are applicable to former Members and officers, former employees, former Committee employees, staffers—for one year after leaving office.

The former Members' and officers' attempt to influence current Members, officers, employees of either the Senate or the House, or any other employee of any other legislative office of Congress, have been prohibited.

For former employees from personal staff of a Member, attempts to influence that member or that Member's staff have been prohibited.

For former committee employees—attempts to influence any Committee member or Committee staff, have been prohibited.

For former members and staffers previously involved with trade or treaty negotiations, it has been stipulated that they may not aid or advise anyone other than the US Government concerning those trade or treaty negotiations.

For former members and officers or employees paid at the rate or above 75% of a member's salary, it has been stipulated that they *may not* represent a foreign entity or aid or advise a foreign entity with an intent to influence a decision by a US Government official or employees. [Relevant provisions have been contained in Senate Rule 37].

Other Provisions

Senate Rule 35 and related statutes restrict gift acceptance and stipulate certain exceptions.

Senate Rules 34 and 36 ban receipt of honoraria by members, officers or employees for speeches, appearance or article directly related to an individual's senate duties or position.

Senate Rules 35 and 38 contain stipulation regarding travel reimbursements.

An overview of the Senate Code of Conduct and related Laws, April, 1997, Select Committee on Ethics, may be seen at Appendix III.

Similar provisions have been laid down in the Rules and statutes of the House of Representatives. (Highlights of the Rules may be seen at Appendix IV).

Cases before the Ethics Committees of US Congress

1.23 It would be interesting to peruse some cases before the Ethics Committees of US Congress. The recent Ethics case against Mr. Newt Gingrich, Speaker, House of Representatives, is quite significant. Summaries of the Gingrich case and some other recent cases are given below:—

Newt Gingrich Case

Background

1.24 Mr. Newt Gingrich was a Representative from Georgia in 1994 and was sworn in as Speaker, House of Representatives in January, 1995 and re-elected as Speaker for a second term in January, 1997. Several ethics related allegations were made against him during the period 1994—97. The allegations against Mr. Gingrich were modified from time to time and even fresh charges were filed against him.

Allegations

1.25 The following were the main allegations made against Mr. Newt Gingrich:—

- (i) that he had improperly used funds donated to a political committee (GOPAC) which he headed, to support his college course (Renewing American Civilisation);
- (ii) that he had entered into a controversial deal with his publishers—Harper-Collins;
- (iii) that the 20 hours of cable television time for his course was worth between \$ 150,00 and \$ 200,000 and was an improper gift from Jones Intercable to him;
- (iv) that on four occasions he misused the House floor for furthering his college course in violation of the House Rules. Further that he had violated the House Rules with a series of 12 speeches he gave on the floor to tout a GOPAC conference;
- (v) that he had violated House Rules when he allowed Mr. Donald Jones, a private businessman, to Speaker's office to work on tele-communications legislation.

Consequent Developments

1.26 On 31 October, 1994, the House Committee on Standards of Official Conduct (hereinafter referred to as Ethics Committee) sought information/comments from Mr. Gingrich to determine whether the course was aimed at helping Republican candidates. The Ethics Committee also asked Mr. Gingrich why he did not inform the Committee of the course's ties with GOPAC when he sought permission to teach it in 1993.

On 8 December, 1994, House Democratic Whip Mr. David E. Bonior, requested the Ethics Committee to appoint an independent counsel to investigate Mr. Gingrich.

On 30 December, 1994, Mr. Gingrich renounced a \$ 4.5 million advance he had negotiated for a book deal with publishers Harper-Collins.

Mr. Gingrich testified under oath before the Ethics Committee for three hours on 27 July, 1995.

Ethics Committee's findings

1.27 On 6 Decemebr, 1995, the Ethics Committee found Mr. Gingrich guilty of three offences, but recommended no punishment, dismissed two others and decided to employ a special counsel to look into the final issue. The Committee held that (i) Mr. Gingrich violated House rules governing proper use of the House floor by touting his college course and by promoting a GOPAC seminar in floor speeches; (ii) Mr. Gingrich violated House rules when he allowed one of his political consultants (Mr. Joseph Gaylord) to interview candidates for congressional staff jobs. The Committee dismissed two complaints, including the one about the book deal. Nevertheless it sharply criticized Mr. Gingrich for possibly creating the impression of "exploiting one's office for personal gain". The Committee dismissed the complaint regarding alleged improper acceptance by Mr. Gingrich of free television time from Jones Intercable when it broadcast his course. An outside counsel had been proposed for investigating charges that Mr. Gingrich violated federal tax laws by raising funds for his college course through tax-exempt foundations.

Appointment of outside counsel

1.28 On 22 December 1995, the Ethics Committee appointed former public Department prosecutor James M. Cole, as its Special Counsel to the Gingrich probe.

Fresh charges—rejection by Committee on technical grounds

1.29 Subsequent to Committee's findings a new set of ethics complaints were made against Mr. Gingrich based largely on documents released during investigation of GOPAC by the Federal Election Commission. The

new allegations pertained to violations of tax, federal election and bribery laws, as well as House rules by Mr. Gingrich. It was also alleged that the GOPAC improperly injected \$ 250,000 into Mr. Gingrich's tight 1990 election race, which he won by only 974 votes. Among organisations cited in the complaint were GOPAC, the Progress and Freedom Foundation and the Abraham Lincoln Opportunity Foundation. This complaint was rejected by the Committee on technical grounds.

Revised Charges

1.30 On 1 February 1996, the Ethics Committee accepted the new revised charges. It was alleged that Mr. Gingrich improperly commingled the resources of tax-free foundations and political action committees for his personal campaign and congressional office. It was also alleged that Mr. Gingrich did favour on behalf on GOPAC donors.

1.31 In August 1995, Mr. Cole, the outside counsel to the Committee, gave a confidential preliminary report to the Committee.

On 26 September, 1996, the Ethics Committee announced expansion of the scope of its investigation in the Gingrich case. The Committee said that it would look into whether Mr. Gingrich provided "accurate, reliable and complete information concerning the course he taught". The Committee also gave its special counsel (Mr. Cole) the authority to look further into the Progress and Freedom Foundation, including its ties to GOPAC and whether Mr. Gingrich used the Foundation to pay for congressional expenses while on the job. The expanded list also allowed Mr. Cole to look into the Abraham Lincoln Foundation and its role in televised workshops aimed at recruiting conservative activists.

Plea of guilty by Mr. Gingrich

1.32 On 21 December, 1996, amid mounting pressure, Mr. Gingrich pleaded guilty to alleged violations cited by the Ethics Committee. Four members of Ethics Sub-Committee investigating the case—Reps. Porter J. Goss; Benjamin L. Carain, Sleson H. Setif and Tom Sawyer — issued a 22 page "Statement of Alleged violation" and released Mr. Gingrich's own admission that he had violated House rules. (The said admission was signed by the Speaker and his new lawyer, Evans).

1.33 In the personal statement released by Speaker, Mr. Gingrich, he conceded that he did give an inaccurate, incomplete and unreliable statement to the Ethics Committee. He, however, said that he did not intend to mislead the panel.

Ethics Committee's conclusions

1.34 The Committee concluded its investigation of Mr. Gingrich in January, 1997 and turned over to the Internal Revenue Service its voluminous file. The Committee concluded—and Mr. Gingrich acknowledged—that he failed to seek proper legal advice in using tax exempt organisations in conjunction with "his quest to lead a Republican

takeover of the House". Mr. Gingrich admitted giving the committee false information about GOPAC's relationship with the organisation.

1.35 On 21 January, 1997, Mr. Gingrich was reprimanded in the House and he agreed to pay \$ 300,000 fine.

1.36 The Committee left unresolved the issue of whether Mr. Gingrich violated tax law, which it deemed to be outside its ambit. It is now left to the Internal Revenue Service to try and bring the line separating legal from illegal into better focus.

OTHER CASES

House of Representatives—Committee on Standards and Official Conduct

1.37 Rep. Armev case—1995

The House Ethics Committee, on June 13, 1995, cited Majority Leader Dick Armev, for improperly writing a letter on a facsimile of House stationery that was mailed by an outside group, but said it would take no action.

House Standards of Official Conduct Chairwoman Nancy L. Johnson, and ranking minority member Jim McDermott, told Armev that the use of official letterhead for something other than official business violated House rules.

Armev's letter was mailed April 12 to business leaders by the Capital Research Centre, a conservative advocacy group that had recently criticized the contributions of corporate executives to liberal advocacy groups. On May 31, consumer advocate Ralph Nader and Gary Ruskin, director of Nader's Congressional Accountability Project, asked the Ethics Committee to investigate the use of official House letterhead.

On June 2, Armev wrote the Committee that he regretted the "unintentional" mistake.

1.38 Rep. Wilson case—1995

The Federal Election Commission (FEC) levied its largest fine ever against a House Member, Charles Wilson. The \$90,000 penalty came after charges that Wilson had broken federal election law 15 times and might have violated the 1978 Ethics in Government Act and House financial disclosure rules.

The FEC alleged that Wilson borrowed \$26,500 from his campaign committee in 1988-90 without disclosing the loans or repayments. Wilson spent the money, according to the FEC, for personal expenses, including hotel and travel costs and a \$2,051 catering bill from December 1989.

Wilson paid the fine, which the FEC disclosed in September 1995. His attorney, Abbe Lowell, however, insisted that the accusations were untrue. Wilson said he paid the fine to avoid further legal complications.

Wilson admitted that he funded his re-election campaign in part with bad checks from the House Bank, where he had 81 overdrafts.

On Oct. 23, 1995, Wilson announced that he would not seek a 13th term.

On Dec. 8, 1995, the House Committee on Standards of Official Conduct rebuked Wilson for borrowing from his campaign committee, saying he should have known that he was not allowed to do so. It then closed its books on the case.

Senate Select Committee on Ethics

1.39 Sen. Daschle case, 1995

The Senate Select Ethics Committee on Nov. 30, 1995 dismissed allegations that Senate Minority Leader, Tom Daschle, improperly intervened with federal regulators to help a friend's charter company.

A complaint against Daschle was filed on Feb 8 1995 by David A. Keene, Chairman of the American Conservative Union, seeking an investigation into Daschle's dealings with federal airline regulators in behalf of B&L Aviation of Rapid City, charter service owned by one of his friends, Murl Bellew. A second request for an investigation came from the widows of three Indian Health Service doctors killed when one of B&L's planes crashed on Feb. 24, 1994.

Daschle came under scrutiny because in 1992 he began efforts to get federal regulators to consolidate aviation inspections under the Federal Aviation Administration (FAA). Other federal agencies had been involved in safety inspections because the charters ferried Government officials into less-than-hospitable areas, such as — a back-country wilderness.

While B&L's planes passes FAA inspections, the U.S. Forest Service found a number of violations during its safety reviews, and the charter company, consequently, was banned in the winter of 1994 from Flying Forest Service employees. The plane that crashed had passed both FAA and Forest Service inspections. The National Transportation Safety Board blamed the crash on pilot error and bad weather.

"Contacts and actions by Sen. Daschle and his staff were routine and proper constituent services," the committee said.

In September 1995, the Transportation Department's inspector general cleared Daschle's wife, Linda, an FAA deputy administrator, of intervening in the case, and reported that there was no evidence that documents were destroyed.

Daschle offered a detailed report on Feb. 17, 1995 — chronicling his involvement with B&L and his attempts to consolidate air-plane inspections. The report, paid for out of Daschle's campaign finance account, was prepared by a veteran Democrat.

1.40 Sen. Faircloth case, 1995

Faircloth, a major hog farmer in North Carolina, had requested the ruling following a series of articles in *The Charlotte Observer* in late 1994 questioning his financial and political ties. Senate Rule 37 said Senators could not push for legislation that would benefit themselves or their families, or "the financial interests of a limited class to which such individuals belong."

The Ethics Committee said the hog industry affected so many people that Faircloth's actions did not violate the rule.

On 22 Feb, 1995 the Senate Ethics Committee said that Sen. Lauch Faircloth's multimillion-dollar investment in hog farming did not conflict with his responsibilities on Capitol Hill.

CHAPTER II

UNITED KINGDOM

Political Structure

2.1 In Britain, the Queen personifies the State. In law, she is the Head of the Executive, an integral part of the legislature, head of the judiciary, the Commander-in-Chief of all the armed forces of the Crown and the 'supreme governor' of the established Church of England. As a result of a long process of evolution, during which the monarch's absolute power has been progressively reduced, the Queen acts on the advice of her Ministers.

Organs of Government

2.2 The organs of the Government in the United Kingdom, as mentioned below, are readily distinguishable although their functions often intermingle and overlap:—

- (i) The Legislature, the Supreme Authority in the realm.
- (ii) The Executive, which consists of (a) The Government *i.e.*, the Cabinet and other Ministers of the Crown, who are responsible for initiating and directing National Policy; (b) Government Departments, most of them under the direct control of Ministers and all staffed by Civil Servants who are responsible for Administration at the national level; (c) Local authorities which administer and manage various services at the local level and (d) Public Corporations generally responsible for the operation of particular nationalised industries or of a social or cultural service.
- (iii) The Judiciary, which determines Common Law and interprets statutes and is independent of both the Legislature and the Executive.

Parliament

2.3 Parliament is the supreme Legislative Authority in the United Kingdom. The Parliament is composed of the Sovereign (the Queen), the House of Lords and the House of Commons.

House of Lords

2.4 The Lords Spiritual and Temporal sit together, and jointly constitute the House of Lords. The Lords Spiritual are the Archbishops of Canterbury and York, the Bishops of London, Durham and Winchester, and 21 next most senior diocesan bishops of the Church of England. The Lords Temporal consist of (i) all hereditary peers and peeresses of England, Scotland, Great Britain and the United Kingdom (but not peers of Ireland); (ii) life peers created to assist the House in its judicial duties (Lords of Appeal or 'Law Lords'); and all other life peers.

House of Commons

2.5 The House of Commons is elected by universal adult suffrage and consists of 651 Members. Of the 651 seats, 524 are for England, 38 for Wales, 72 for Scotland and 17 for Northern Ireland.

General elections are held every four years or earlier after a Parliament has been dissolved and a new one is summoned by the Queen.

Standards of Conduct

Historical background

2.6 In November 1995 the House of Commons agreed to significant changes in its rules and machinery relating to perceived possible conflicts between the outside financial interests of Members and their duties in the House. This followed the Prime Minister's initiative in October 1994 in setting up a committee of inquiry as a result of public disquiet about press reports questioning standards in public life.

2.7 The Committee's remit was "to examine current concerns about standards of conduct of all holders to public office, including arrangements relating to financial and commercial activities, and make recommendations as to any changes in the present arrangements which might be required to ensure the highest standards of propriety in public life." Lord Nolan, a distinguished judge, was appointed Chairman of the Committee on Standards in Public Life.

Nolan Committee Report on standards in public life

2.8 The Nolan Committee took issues relating to Members of Parliament as one of the topics for its first report, which appeared in May 1995. The Committee stated clearly that it remained desirable for the House to have Members with a wide variety of outside interests, since Parliament would, otherwise, be less well informed and less effective. Lord Nolan also thought it important that the House should

continue to have Members from a wide variety of backgrounds and felt that any ban on Members having outside paid interests might lead to a narrowing in the range of able men and women who would be attracted to stand for Parliament.

2.9 The Nolan Committee was, nonetheless, critical of the rules which governed Members' outside interests. Bribery had, for centuries, been an offence against parliamentary law, and there had, for 20 years, been detailed requirements for the registration of members' financial interest; but in other respects, questions of conduct and propriety tended to be left to the general good sense of members rather than to formalized rules.

2.10 A 1947 resolution of the House prohibited contracts between a Member and an outside organization which rested on an undertaking to act in Parliament in accordance with the wishes of that organization, thus limiting the Member's freedom of action in the House.

2.11 The Nolan Committee considered calling for a ban on all forms of advocacy in Parliament by Members pursuing the interests of those with whom they held consultancy arrangements, but concluded that an immediate ban would be impracticable. Instead, it recommended a prohibition on parliamentary consultancies with public relations or lobbying firms which acted for multiple clients, and a review by the House of the merits of allowing Members to hold parliamentary consultancies at all.

2.12 Nolan also called for consultancy and trade union sponsorship arrangements, and the payments arising from them, to be fully disclosed.

2.13 Other recommendations related to improving the guidance available to Members on the questions of conduct, and to improving the arrangements by which the House of Commons enforces its own rules.

2.14 The Nolan Committee had called for drawing up of a Code of Conduct for members of Parliament setting out the broad principles which should guide the conduct of Members and should be restated in every new Parliament. The Committee has set out seven principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership for the benefit of all who serve the public in any way.

Select Committee on Standards in Public Life

2.15 Following a debate on the Nolan Report, the House set up its own Select Committee on Standards in Public Life to advise on how the Nolan recommendations relating to the rules and procedures of the House might be clarified and implemented. After intensive deliberations, the Committee produced two reports which provided the basis for the decision taken by the House.

2.16 In one important respect the Select Committee's recommendations (and the subsequent decisions of the House) went significantly beyond the Nolan Committee's recommendations.

Select Committee's deliberations

2.17 Nolan had recommended a ban on multiclient consultancies; but after a great deal of thought the Select Committee concluded that the difficulties of definition were too great to make this approach workable. The Select Committee identified the main source of public anxiety as the notion that Members were open to improper influence, and, accordingly, it recommended that those actions by Members which seemed to give rise to such suspicions—namely, those which could be seen as constituting advocacy in Parliament on behalf of any outside organisation of whatever kind, in return for payment—should be prohibited altogether.

2.18 The House accepted the Select Committee's advice that the 1947 resolution should be extended to provide that:

no Member of this House shall, in consideration of any remuneration, fee, payment, reward or benefit in kind, direct or indirect, which the Member or any member of his or her family has received, is receiving or expects to receive:

(i) advocate or initiate any cause or matter on behalf of any outside body or individual, or (ii) urge any other Member of either House of Parliament, including Ministers, to do so, by means of any speech, question, motion, introduction of a bill, or amendment to a motion or Bill.

2.19 In making this recommendation, the Select Committee gave general guidance on what it intended, but emphasized that the interpretation of the new resolution in particular circumstances should be a matter for a new Select Committee on Standards and Privileges, advised by the Parliamentary Commissioner for Standards, who would not be drawn from Parliament itself, under arrangements already agreed to by the House in July, 1995.

The Committee on Standards and Privileges

2.20 The Nolan Committee said there was considerable uncertainty about the respective roles of the House of Commons's historic Committee of Privileges, which had investigated the "cash for question" case, and the Select Committee on Members' Interests, which supervised the Register and the arrangements for registration and also dealt with allegations that Members had failed to register or declare their interests.

2.21 Both Committees have now been replaced by a new Committee on Standards and Privileges. This Committee considers complaints about Members' conduct referred to it after an independent investigation by a newly created Parliamentary Commissioner for Standards. The Committee on Standards and Privileges has been given several unique powers, including the power to compel Members to attend before it and to produce specific documents. In order to give the committee legal

assistance, the Law Officers are empowered to take part in its proceedings and receive papers.

2.22 Nolan called for Members to be given clearer guidance about the principles which should govern their conduct, and recommended that a code of conduct should be drawn up. The Committee on Standards and Privileges has been instructed to prepare such a code for approval by the House, taking into account the suggestions of the Nolan Committee and any relevant overseas analogues.

Parliamentary Commissioner for Standards

2.23 Following Nolan's recommendation to introduce an independent element into the House's system of self-regulation, the House has established the post of Parliamentary Commissioner for Standards.

The Commissioner is an independent officer of the House, appointed by the House, who is charged with giving advice to Members about questions of propriety and conduct, including the interpretation of the code of conduct, and with investigating complaints against Members and reporting to the Committee on Standards and Privileges.

Code of Conduct

2.24 A code of Conduct¹, together with the "Guide to the Rules Relating to the Conduct of Members," has since been approved by the House of Commons on 24 July, 1996.

Some more important ethical aspects as laid down in the guide relating to conduct of Members are briefly mentioned as under

I. Registration of Members' Interests

Governing provision

2.25 Under the resolution agreed by the House on 22 May, 1974 and under the Code of Conduct, Members are required to register their pecuniary interests in a Register of Members' Interests.

Compilation of register

The Parliamentary Commissioner for Standards has been entrusted with the duty of compiling the Register. The main purpose of the Register of Members' Interests is to provide information of any pecuniary interest of other material benefit which a Member receives and which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament.

Duties of Members in respect of registration

Members are required to complete a registration form and submit it to the Commissioner for Standards within three months of taking their seats after a general election. This three month time limit is also applicable to a

¹May be seen at Appendix V.

Member returned at a by-election. Responsibility is cast upon Members to notify changes in their registrable interests within four weeks of the each change.

Members are required to make full disclosure of their interests.

Publication and public inspection

The Register is required to be published soon after the beginning of a new Parliament under the authority of the Committee on Standards and Privileges, and annually thereafter.

Between publications, the register has to be regularly updated in a 100 leaf form and, that form is available for public inspection in the Committee office of the House of Commons.

Categories of registrable Interest

There are ten categories of registrable interest viz. (i) Directorships; (ii) Remunerated Employment, Office Profession, etc.; (iii) Clients; (iv) Sponsorships; (v) Gifts, benefits and hospitality (U.K.); (vi) Overseas visits; (vii) Overseas benefits and gifts; (viii) Land and Property; (ix) Shareholdings; and (x) Miscellaneous.

II. Declaration of Members' Interests

Governing provision

2.26 In 1974 the House replaced a long standing convention with a rule that any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, should be declared in debate, or other proceeding. The same rule placed a duty on Members to disclose to Ministers, or servants of the Crown, all relevant interests.

Past and potential interests

The rules relating to declaration of interest is broader in scope than the rules relating to the registration of interests in two important respects. Apart from the current interests, Members are required to declare both relevant past interests and relevant interests which they may be expecting to have. In practice only interests held in the recent past, *i.e.* those contained in the current printed edition of the Register, are normally considered for declaration.

It is the responsibility of the Member having regard to the rules of the House, to judge whether a pecuniary interest is sufficiently relevant to a particular debate, proceeding, meeting or other activity to require a declaration. A declaration is required to be brief but sufficiently informative to enable a listener to understand the nature of the Member's interest.

Declaration of interest in respect of written notices

In July 1995, the House agreed to extend the rules relating to declaration of interest by abolishing the exemption granted to the giving of

written notices. Declaration of relevant interest is required on the Order Paper when tabling any written notice viz. (i) Questions; (ii) Motions, amendments thereto; (iii) a notice of a motion for leave to introduce a "ten minute rule" Bill; (iv) a notice for the presentation of a Bill; (v) amendments to Bill whenever such an interest is declared, the symbol (R) is printed after the Member's name on the notice paper or Order Paper.

"Relevant interests" which should be declared include any interest which the Member is required to register in the Register of Members' Interests, or which the Member should declare in debate. Particulars of applications of Declaration of Interests in various situations have been laid down in the guide.

III. Advocacy Rule

2.27 On November 1995, the House of Commons agreed to a Resolution prohibiting paid advocacy. Under the advocacy rule it is wholly incompatible for a Member (i) to accept payment for speaking in the House; (ii) vote, ask a Parliamentary Question, table a motion, introduce a Bill or table or move an amendment to a motion or Bill or urge colleagues or Ministers to do so, on payment.

This Resolution does not prevent a Member from holding a remunerated outside interest as a director, consultant, or adviser, or in any other capacity, whether or not such interests are related to membership of the House. There is no prohibition on sponsorship of a Member by a trade union or any other organisation, or holding any other registrable interest or from receiving hospitality in course of Member's parliamentary duties.

1995 Resolution vis-a-vis 1947 Resolution

2.28 The Resolution of 1995 extended and reinforced the Resolution of 1947 which stipulated that a Member may not enter into any contractual arrangement which fetters the Member's complete independence in Parliament by any undertaking to press some particular point of view on behalf of an outside interest.

Guidelines on the application of the advocacy rule

2.29 The Committee on Standards and Privileges laid down certain guidelines on the application of the advocacy rule. The key aspects touched upon in the guidelines are — initiating a parliamentary proceeding; participation in debate etc., and constituency interest.

Parameters to the operation of the advocacy rule

2.30 The Committee on Standards and Privileges had laid down parameters to the operation of the advocacy rule which can be broadly stated as follows:

- (i) The advocacy rule and registrable interests
- (ii) Past, present and future benefits

- (iii) Continuing benefits
- (iv) "One-Off" benefits
- (v) Family benefits
- (vi) Ballot Bills
- (vii) Visits to United Kingdom dependency.

Responsibility of the Member

2.31 As in the rules of the House relating to registration and declaration of interest, the main responsibility for observation of the rule on advocacy lies with the individual Member.

IV. Procedure for Complaints

2.32 The following procedure has been laid down for complaints alleging violation of Code of Conduct—

1. Complaints alleging that conduct of a Member is incompatible with the Code of Conduct or to the Guide can be made by Members and also member of public.

2. Such complaints have to be addressed in writing to the Parliamentary Commissioner for Standards.

3. The Select Committee on Members' Interests—1992-93 in their First Report, opined that "it is not sufficient to make an unsubstantiated allegation and expect the Committee to assemble the supporting evidence" and that it "would not normally regard a complaint founded upon no more than a newspaper story or television report as a substantiated allegation".

Both the Commissioner and the Committee on Standards and Privileges are to be guided by this view.

4. The Parliamentary Commissioner for Standards is not to entertain anonymous complaints.

5. The receipt of a complaint by the Commissioner is not to be interpreted as an indication that a *prima facie* case has been established.

6. In case the Commissioner decides that the complaint does not have substance to merit further reference to the Committee, he may, at his discretion reject the complaint.

If the Commissioner is satisfied that sufficient evidence has been tendered in support of the complaint to justify his taking matter further, he may seek comments of the Member and conduct a preliminary inquiry.

After preliminary inquiry, if the Commissioner decides that there is no *prima facie* case, he has to report that conclusion briefly to the Committee.

On the contrary, if he finds that there is a *prima facie* case or that the complaint raises issues of wider importance, he has to report the facts and his conclusions to the Committee.

7. The Committee on Standards and Privileges then considers any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches of the Code of Conduct, or Guide to which the House has agreed and which have been drawn to the Committee's attention by the Commissioner.

8. The Committee has power under its Standing Order to send for persons, papers and records.

9. While it is the practice of the Committee to deliberate in private, the Committee may also hold public sessions and is empowered to refuse leave for the broadcasting of any public sessions.

10. On specific complaints on which the Commissioner has decided there is a *prima facie* case, the Committee has to make recommendations to the House on whether further action is required. Committee is also empowered to report to the House on other complaints if it deems fit.

Cases before Committee on Standards and Privileges, House of Commons, U.K.

Complaints from Mr. Mohamed Al Fayed, The Guardian and others against 25 Members and former Members.

Background—allegations

2.33 The initial allegations emerged from articles by David Hencke and John Mullin in *The Guardian* of October 1993. In one article it was alleged that Mr. Neil Hamilton did not declare in the Register of Member's Interests a week's holiday for himself and his wife at a five star hotel in 1987 for which the bill was over \$ 5000 and that this contrasted with the action of Mr. Tim Smith in registering a gift of two teddy bears received from the same source. The hotel was later identified as the Ritz in Paris and the source as Mr. Mohamed Al Fayed, the owner of harrods. A second article on the same day drew attention to the activities of Ian Greer Associates, a lobbying company, and to the links it had established with a number of Members including Mr. Hamilton, Mr. Smith and Sir Michael Grylls.

2.34 On 20 October, 1994 *The Guardian* published a further article alleging that Ian Greer Associates were paid tens of thousands of pounds by Mr. Al Fayed to reward Mr. Smith and Mr. Hamilton for asking Parliamentary question on behalf of House of Fraser.

On the same day (20 October, 1994) Mr. Hamilton and Mr. Greer issued writs for libel against *The Guardian*, and Mr. Smith (who had admitted receiving money from Mr. Al Fayed) resigned from his Ministerial post.

2.35 Mr. Alex Carlile formally complained to the Select Committee on Members' Interests that Mr. Hamilton had failed to register the hospitality at the Ritz and the receipt of Harrods vouchers to a value of about \$ 6000.

2.36 The second part of the complaint was subsequently extended to include cash payments, and was supported by a letter from DJ Freeman, solicitors to Mr. Al Fayed, claiming that payments of cash totalling \$ 20,000 and gift vouchers to a value of \$ 8,000 had been made to Mr. Hamilton in the period June 1987 to November 1989.

2.37 In response to these allegations Mr. Hamilton argued that the hospitality could be seen as non-registrable under the rules as they were interpreted at the time; that he had never received cash or vouchers from Mr. Al Fayed; and that the Select Committee's inquiry should not be substituted for the Court action.

2.38 The Cabinet Secretary's report was published as a written answer to a Parliamentary question on 25 October, 1994. It recorded the fact that Mr. Smith had admitted receiving money from Mr. Al Fayed and had tendered his resignation from the Government, but that Mr. Hamilton continued to deny the allegations of cash payments. Later the same day, however, Mr. Hamilton also resigned his post, at the request of the Prime Minister on the grounds that the allegations against him (which by then covered a number of other matters) disabled him from carrying out his responsibilities as Minister for Corporate Affairs.

2.39 On the first part of the complaint the Committee decided that the stay at the Ritz was registrable but that a relative lack of clarity in the registration form in 1987 could be pleaded in mitigation. It concluded that it was unnecessary to recommend further action by the House.

2.40 In giving evidence to the Committee of Privileges in November, 1995 in a case involving Mr. Jonathan Aitken and *The Guardian*, Mr. Al Fayed submitted a memorandum containing allegations of misconduct against a number of Members. It repeated the charges against Mr. Hamilton and Mr. Smith and the letter from D J Freeman was re-submitted. But Mr. Al Fayed went further, adding the name of Sir Andrew Bowden to those who, he said, he had paid for Parliamentary services and charging Mr. Michael Howard with acting in a Ministerial capacity whilst failing to disclose a relevant conflict of interest.

At that time the allegations were largely unsupported by evidence. The Privileges Committee decided not to pursue them and Mr. Al Fayed's memorandum was not published, and that the memorandum and unreported evidence should be referred to the Select Committee on Standards and Privileges "for examination by the Parliamentary Commissioner for Standards".

On clarification being sought, in August 1996 Mr. Al Fayed's solicitors delivered a formal letter of complaint, together with detailed supporting evidence, against Mr. Howard.

On 30 September, 1996 Mr. Hamilton and Mr. Greer withdrew from the libel case.

Following representations from the Opposition, the Speaker made her statement to the House on 14 October, 1996. Referring to these matters she observed, "I hope that the Committee on Standards and Privileges will find it possible to make an early special report to the House..."

On 18 October, 1996, *The Guardian* sketched out the case against Sir Michael Grylls, Sir Andrew Bowden, Sir Peter Hordern, Mr. Gerry Molone, Lady Olga Maitland, Mr. Michael Brown, Mr. Smith and Mr. Hamilton. In the case of Mr. Hamilton, the newspaper confirmed that the allegations were based on their amended defence in the libel action. As regards the other Members, the paper said, "We will formulate these complaints with precision in due course."

Mr. Al Fayed submitted a written statement to the Chairman, Committee of Privileges and Standards which indicated that, although other Members were mentioned, his specific complaint was only against Mr. Hamilton. He subsequently confirmed, however, that he was prepared to assist the inquiry, if possible, with information concerning allegations made against other Members.

On 15 January, 1997 the solicitors to *The Guardian* (Olswang) confirmed that the newspaper's complaints were, with minor exceptions, those set out in their letter of 18 October, 1996. These were subsequently spelt out in greater detail by which time much of the evidence had been assembled.

Allegations

Four main categories of allegations were finalised:—

- (i) that cash payments were made to Members for Parliamentary services provided on behalf of Mr. Al Fayed or House of Fraser; and that these cash payments came either direct or *via* Mr. Greer, from Mr. Al Fayed;
- (ii) that financial interests were persistently not registered in the Register of Member's Interests; and that, in some cases, fees were disguised as one-off commissions for the introduction of

business to Ian Greer Associates Ltd. in order to make them less obviously registrable;

- (iii) that financial interests were not declared in relevant proceedings of the House and in representations made to Ministers or contracts with civil servants; also that they were not always declared for tax purposes;
- (iv) that other actions were incompatible with the standards expected of Members — for example, taking commissions to introduce constituents to lobbyists or ongoing fees to represent constituents' interests; and soliciting business on behalf of lobbyists in the hope of receiving introduction fees.

Allegations made against Members

- a “lobbying group”, said to be engaged in concerted lobbying on behalf of Mr. Al Fayed, and largely organized by Mr. Greer;
- other Members associated with Mr. Greer (but not with Mr. Al Fayed) against whom more than one allegation had been made;
- a larger group, against whom no specific complaint had been made;
- a larger group, against whom no specific complaint had been made, but who were criticised in the press for failing to register contributions to election expenses from Mr. Greer.

After the evidence of all the concerned members, the Committee deliberated upon the matter extensively. The Committee arrived at the following finding relating to the concerned individual Members:—

Mr. Smith

- (i) Mr. Smith accepted cash payment directly from Mr. Al Fayed of between \$ 18,000 and \$ 25,000 in return for lobbying services. There was no evidence to indicate that he received cash from Mr. Al Fayed indirectly through Mr. Greer.
- (ii) The way in which these payments were received and concealed fell well below the standards expected of Members of Parliament.
- (iii) The allegation that Mr. Smith was paid to initiate an Adjournment debate in 1986 is not substantiated.
- (iv) Mr. Smith's financial interest in relation to House of Fraser was only registered in January 1989 when it had been publicly exposed by Mr. Rowland; and then only hesitantly for a period of two and a half weeks. This has to be seen as a disingenuous attempt at concealment. On any view, this was a totally unacceptable form of registration by Mr. Smith.
- (v) Mr. Smith persistently and deliberately failed to declare his interests in dealings with Ministers and officials over House of Fraser issues.

Mr. Hamilton

- (i) The amount received by Mr Hamilton was unknown but was unlikely to have been less than the total amount received by Mr. Smith. There was no evidence to indicate that Mr. Hamilton received cash from Mr. Al Fayed indirectly through Mr. Greer.
- (ii) The way in which these payments were received and concealed fell well below the standards expected of Members of Parliament.
- (iii) There was insufficient evidence to show that Mr. Hamilton received Harrods vouchers.
- (iv) The hospitality Mr. Hamilton received from Mr. Al Fayed at the Ritz and elsewhere was intended, and accepted, as part of his reward for lobbying. It was not, as it should have been, registered.
- (v) Mr. Hamilton failed to register two introduction payments from Mr. Greer in relation to NNC and UST, some of which he took in kind. There is insufficient evidence to show that the UST payment was a disguised consultancy fee.
- (vi) Mr. Hamilton did not register hospitality received from UST in 1989; on balance, it would have been better had he done so.
- (vii) Mr. Hamilton deliberately misled the President of the Board of Trade about his financial relationship with Mr. Greer.
- (viii) Mr. Hamilton failed to register a consultancy fee from Strategy Network International on the spurious grounds that an interest acquired and disposed of within four weeks was non-registrable.
- (ix) Mr. Hamilton persistently and deliberately failed to declare his interests in dealings with Ministers and officials on the issues of House of Fraser and Skoal Bandits and, in some cases, was positively misleading about the status of his representations.
- (x) Mr. Hamilton accepted a commission payment for introducing a constituent to Mr. Greer, as well as a consultancy fee for representing that constituent's interests. Both these actions were unacceptable, the latter more so because it created a conflict of interest for Mr. Hamilton in representing his other constituents.

Sir Andrew Bowden

- (i) There is insufficient evidence to substantiate the allegation that Sir Andrew received, or demanded, cash payments from Mr. Al Fayed in return for lobbying services.
- (ii) The election donation of \$ 5,319 from Mr. Greer was intended as a reward for lobbying and Sir Andrew probably knew it came originally from Mr. Al Fayed.
- (iii) Sir Andrew failed to register, as he should have done, this election campaign donation.
- (iv) Sir Andrew failed to declare his interests in dealings with Ministers and officials over House of Fraser, and, in one case, gave a positively misleading explanation for his representations.

Sir Michael Grylls

- (i) Sir Michael received payments from Mr. Greer (though not in cash) which were neither introduction commissions nor fees associated with the Unitary Tax Campaign.
- (ii) Sir Michael deliberately misled the Select Committee on Members' Interests in 1990 by seriously understating the number of commission payments he had received; and by omitting to inform them of other fees received from Mr. Greer.
- (iii) Sir Michael persistently failed to declare his interests in dealings with Ministers and officials over the House of Fraser.
- (iv) Sir Michael's action in taking a commission payment for introducing a constituent to Mr. Greer was unacceptable.
- (v) There is insufficient evidence to show that Sir Michael solicited business for Mr. Greer in expectation of commission payments.

Sir Peter Hordern

- (i) Sir Peter had no obligation to disclose to Ministers the interests of his colleagues; and, although the extent to which he declared his own interests on House of Fraser matters fell well short of the terms of the 1974 Resolution, there is no evidence that Ministers and officials were misled by this.
- (ii) The spirit of the rules would have been better observed had Sir Peter made a separate Register entry in respect of Mr. Al Fayed's hospitality, but this omission was not improper by the standards accepted at the time.
- (iii) The allegation that Sir Peter tabled questions for cash is without substance and has been withdrawn.

Mr. Brown

- (i) Mr. Brown failed to register an introduction payment from Mr. Greer in relation to US Tobacco.

(ii) Mr. Brown persistently and deliberately failed to declare his interests in dealing with Ministers and officials over the Skoal Bandits issue.

(iii) Mr. Brown has expressed regret for these omission.

Mr. Malone

Mr. Malone has no case to answer.

Lady Olga Maitland

Lady Olga has no case to answer.

CHAPTER III

AUSTRALIA AND NEW SOUTH WALES

1. Parliaments of Australia and New South Wales

Political Structure of Australia

3.1 The Government of Australia is modelled on the Westminster system, with a Cabinet as the major policy-making agency. Legal effect is given to Cabinet decisions by the Executive Council, a formal body presided over by the Governor-General. Queen of the United Kingdom is formally the Queen of Australia. The Governor-General, together with six state Governors, represent the Queen.

3.2 Australia has a three-tier (federal, state and local) system of Government. At the federal level is the Australian Parliament (the legislature) and the Government responsible for all matters of national interest.

3.3 At state level are six governments and their legislatures. In addition, the Northern Territory and the Australian Capital Territory (ACT), are structured similarly. Local governments comprise about 900 elected city, municipal and shire bodies.

3.4 Federal parliamentary powers are defined in the Australian Constitution, which came into force on 1 January 1901. All parliaments, except those of Queensland, the ACT and the Northern Territory have two chambers.

Parliament of Commonwealth

3.5 Australia's federal legislature or Parliament consists of the Queen, represented by the Governor-General, the Senate (upper house) and the House of Representatives (lower house). The Senate and the House of Representatives are directly elected by the people.

Senate

3.6 The Senate has 76 members who are known as Senators. The Senate is also known as the 'State's House' since each State, regardless of population, has equal representation. Each State is represented by 12 Senators and both the Northern Territory and the Australian Capital Territory have two Senators each, making a total of 76.

House of Representatives

3.7 The House of Representatives consists of 148 members, each representing a single-member electoral Division. Each Member of the House of Representatives is elected for a Division under an absolute

majority system, where a candidate must receive 50 per cent plus one of the formal votes in a Division for election.

Ethics/Code of Conduct

Genesis

3.8 The most authoritative, and the earliest, Commonwealth parliamentary study of the subject of ethics and a code of conduct for Members of Parliament was contained in the report of the Joint Committee on Pecuniary Interests of Members of Parliament, tabled in both Houses of Parliament on 30 September, 1975. The primary recommendation of the report was that a register of pecuniary interests of Members of Parliament be maintained. The Joint Committee report suggested that declarations be made by Members of both Houses, reporting to a common register with a joint supervisory Committee. The Committee thought that a Code of Conduct was desirable, but left the formulation of such a code to the proposed joint supervisory Committee.

The matter regarding the Code of Conduct and other related issues is still pending finalisation.

Committee of Inquiry into Public Duty and Private Interest (Bowen Committee)

3.9 The matter picked up momentum in 1978 with the setting up of a non-parliamentary Committee of inquiry, under the chairmanship of the then Chief Justice of the Federal Court of Australia, Sir Nigel Bowen. The Committee's reports presented to the Government in July, 1979 and submitted to the Parliament in November that year, eschewed any proposal for Compulsory public registration of interests, and concentrated instead on the need for a Code of Conduct to govern the behaviour of Members of Parliament, Ministers, public servants, statutory office holders and associated staff.

3.10 While the Committee recommended that the already existing practice of private registration of pecuniary interests of Ministers be continued, it also pointed out, like its parliamentary predecessor, the difficulties in confining registration to pecuniary interests, stating the obvious that personal interest is impossible to codify. Unlike the parliamentary committee, however, it confined its proposals for a code of conduct to public officials, thereby excluding the media, lobbyists and others dealing with the government. The emphasis of the report, rather than being on registration of interests, was on their disclosure at the relevant time.

The report of the Committee was noted in the House of Representatives on 21 May, 1980, but no debate was held in the Senate.

Thereafter, there was no further development till 1983.

Registration of interests

3.11 In October, 1983, each House of Parliament agreed in principle to the setting up of a Public Register of Pecuniary Interests of Members of Parliament and their families. However, the concept of generalised Code of Conduct and ethics committees were discarded. In 1984, the House of Representatives formulated a scheme for declaration of interests, adopted a motion for establishing a Committee of Members' Interests. The Senate, however, did not follow suit at that time. In the ensuing years, sporadic attempts were made to establish the Register of Interests but it was not until April, 1994 that a comparable scheme was established in the Senate. [In the House of Representatives, the statement¹ of Registrable Interests has to be filed by the Members both at the time of election as well as dissolution of the House. Whenever there are alterations in the Interest, the same have also to be notified by the Members].

Codes of Conduct — Setting up of Working Groups

3.12 As for the Code of Conduct, the then Prime Minister proposed, in 1991, that Working Group of Parliamentarians be established to develop a seminar on the standards of conduct expected of Members and Senators. The first Working Group, which was set up to develop a Code of Conduct for Members and Senators and to explore means of disseminating information about the code, began its task in late 1992. The deliberations of the original Working Group, however, remained inconclusive when the Parliament was prorogued and the House of Representatives was dissolved.

In March 1994, on a demand for reconvening the Working Group, the President of the Senate and Speaker of the House of Representatives sought the assistance of party leaders in nominating members to the Working Group. By June 1994, the new Working Group was able to hold its first meeting. The Working Group comprised representatives from all parties in the Parliament and some independent representatives.

Deliberations of the Working Group

3.13 The Working Group, at the outset, considered some threshold issues, including what the Code was intended to provide, what its status should be and how it should be managed. As the Working Group was not a formally constituted committee of the Parliament, its deliberations did not enjoy the attendant privileges. Taking this into account, and wishing to test whether there were widely-shared public views on the matters under consideration, the group decided to place advertisements in all major metropolitan newspapers in early July 1994. There were 26 responses. These were taken into account in the group's subsequent deliberations. The Group also relied heavily on the major work done in this field by the Queensland Electoral and Administrative Review Commission (EARC) in 1992 and earlier by the Committee of Inquiry

1. Register of Members, interests — Statement of Registrable Interests — HOR of Appendix-VI.

concerning Public Duty and Private Interest (the Bowen Committee), established by the Fraser Government in 1978, which presented its report in 1979.

As regards the deliberations of the Working Group a pertinent point which merits mention is that much of the discussion within the group centered round whether the code should be specific and prescriptive, or take the generalised form, and the latter was ultimately agreed to.

*Draft Framework of Ethical Principles.*¹

3.14 In June, 1995, the Working Group finally tabled two generalised six-page draft framework of ethical principles — one for members and senators and the other for ministers and presiding officers. It is now for the Parliament to take further consequential measures. This is the present position there.

The highlights of the framework for ethical principles for Members and Senators is as under:

This framework incorporates some relevant ethical standards to guide the behaviour of Members of Parliament and as also former Members:

1. the principles broadly enunciate that Members and Senators must be loyal to Australia and its people.
2. exercise due diligence and while performing their official duties apply public resources economically.
3. have due regard for the rights and obligations of all Australians.
4. act honestly, strive to maintain the public trust placed in them and advance the common good of the people of Australia.
5. base their conduct on a consideration of the public interest.
6. exercise the influence gained from their public office only to advance the public interest.
7. ensure that their personal conduct is consistent with the dignity and integrity of the Parliament.

Besides, the Members and Senators, while considering the above principles, look into account relevant provisions in the constitution and the Parliamentary Entitlements Act, 1990 and standing and sessional orders and resolutions of the House of Parliament of which they are Members and other statutory requirements.

Highlights of the Framework of Ethical Principles for Ministers and Presiding Officers is as under:

Due to the greater trust placed in them, and the power and discretion they exercise in the performance of the duties, it has been stipulated that Ministers and the Presiding Officers must also confirm to a set of ethical

1. May be seen at Appendices ~~VII & VIII~~ ~~VII & VIII~~

standards more stringent than those required of Members and Senators. These principles broadly enunciate that the Ministers and the Presiding Officers must—

1. act impartially, uninfluenced by fear or favour.
2. be frank and honest in their public dealings and in particular must not mislead intentionally the Parliament or the Public.
3. not exercise the influence obtained from their public office to further their personal interests, obtain any improper advantage or benefit for themselves.
4. while accepting gifts, benefits or hospitality offered in connection with their public office, conform and report in accordance with applicable procedures.
5. not use official information for personal gain.

This apart certain stipulations in respect of administrative accountability have also been laid down.

SUMMARIES REGARDING ETHICS RELATED CASES IN THE AUSTRALIAN PARLIAMENT

Senator Mal Colston, Former Deputy President of the Senate

In March 1997, Senator Colston was asked to explain anomalies in his travel expenses claims over the last four years. The amount involved was A\$ 7000 and he had repaid this amount on discovery of wrong claims by the Department of the Senate. It is understood that he had wrongly claimed allowances for 43 overnight stays since July 1993.

On April 10, Senator Colston resigned as the Deputy President of the Senate. The matter was initially examined by the Clerk (equivalent to Secretary General) of the Senate. It was believed to involve fraud, and he recommended to the President of the Senate that it should be investigated by the police. The President of the Senate referred the matter to the Prime Minister, who in consultation with the Attorney General (equivalent to Law Minister) referred the matter to the police for investigations. Investigations are progressing and the case is due for hearing in December 1997.

Senator Jim Short, Former Asst. Treasurer

Senator Jim Short, Assistant Treasurer (equivalent to MOS for Finance) had to resign from the Council of Ministers on 14 October 1996 as he breached the code of conduct for Ministers laid down by PM John Howard. The code says that Ministers are required to divest themselves of all shares and similar interests in any company or business involved in the area of their portfolio responsibilities. The transfer of interests to a family member or to a nominee or trust is not an acceptable form of divestment.

The opposition Labor found out that two files were opened in the Department of Treasury (equivalent to Ministry of Finance) relating to ANZ Bank during the period of Senator Short's incumbency as Assistant Treasurer. These files dealt with policy matters. At the same time, Senator Short held shares in the ANZ Bank. Labor argued a 'conflict on interest' on part of Senator Short in clear violation of Prime Minister's code of conduct for Ministers. Senator Short was not able to defend himself against these charges and therefore had to resign from the Council of Ministers.

Senator Brian Gibson, Former Parliamentary Secretary to the Treasurer

Senator Brian Gibson was the Parliamentary Secretary to the Treasurer. He was accused of having 'conflict of interest' and 'violation of prime Minister's ministerial code of conduct' along with Senator Short. Senator Gibson was found to have shares in some major Australian banks and companies about whom decisions were taken in the Department of Treasury. Senator Gibson, too resigned on 15 October 1996.

Geoff Prosser, Former Minister for Small Business

Geoff Prosser faced allegations of 'conflict of interest' from the opposition Labour Party. It was discovered that while he was Minister for Small Business, he continued to take direct interest in the affairs of his business, which was in breach of the Prime Minister's ministerial code of conduct. He was accused of seeking favour from a local councillor in his constituency to promote his business interests there. He had also approached some major companies in connection with his family business and his private business interests, Prosser had to resign on 12 July 1997 after receiving a great deal of criticism in the Parliament.

John Sharp, Former Minister for Transport David Jull, Former Minister for Administrative Services Peter McGauran, Former Minister for Science

It was discovered that Mr Sharp had claimed more money on account of travel expenditure by giving incorrect information. On many occasions (47 nights in the last one year) while he was in fact in his constituency, in his travel claims he mentioned that he was in Canberra and thus claimed more money. Sharp had returned this money to the Department of the House of Representatives after Senator Colston's case came into the limelight. John Sharp was accused in the House of Representatives of making the false TA claims. He resigned on 24 September.

Minister for Administrative Services, Mr. David Jull also had to resign as he was accused of helping John Sharp in quietly repaying the overclaimed amount without appropriately informing either the Parliament or the Prime Minister.

Minister for Science, Peter McGauran resigned on 26 September 1997 on similar charges as John Sharp. In his case, it was revealed by the opposition in Parliament that while he had repaid certain amounts he had wrongly claimed, he had in addition filed other false travelling allowance claims. Peter McGauran's resignation has led to further controversy as an adviser to Mr Jull revealed that he had kept the Prime Minister's office and Adviser informed of the anomalies in travel allowances claimed by Mr. Peter McGauran. The Prime Minister denied any knowledge of this and dismissed two of his Personal Advisers in his own office for allegedly mishandling the issue and not keeping him informed.

2. New South Wales Legislature

3.16 In terms of New South Wales' Constitution Act 1902, the Legislature, subject to the provisions of the Commonwealth of Australia Constitution Act, has powers to make laws for the peace, welfare and good Government of New South Wales.

The New South Wales Legislature is bicameral in nature, comprising a Legislative Council (Upper House) and a Legislative Assembly (Lower House).

Ethics/Code of Conduct

Constitutional provisions

3.17 Section 14A of the Constitution Act, 1902 of the New South Wales contains provision regarding disclosure of pecuniary interests and other matters by Members. In terms of sub-section (1) of section 14A, the Governor of the State is empowered to make regulations for and with respect to the disclosure by Members of either House of Parliament of pecuniary interests or other matters. This regulatory power of the Governor is subject to two conditions viz., (i) uniform applicability of regulations to Members of both the Houses of Parliament; (ii) affording to any Committee of either House of Parliament established for the purpose, an opportunity of considering and making representations with respect to the proposed regulation *and* taking into account of any such representations.

3.18 In terms of provisions of sub-section (2) of section 14A in the eventuality of any wilful contravention of regulations made by the Governor, the House may declare such Member's seat vacant, in accordance with the procedure laid down in sub-section (3) of Section 14A.

3.19 In 1988, the Independent Commission against Corruption Act (ICAC) was enacted. In 1994, the ICAC Act, 1988 was amended to provide for the establishment of parliamentary committees in both the Legislative Assembly and Legislative Council for their respective Members

with responsibility for developing Code of Conduct. Prior to the amendments to the ICAC Act, the Joint Committee on the ICAC had already commenced an investigation into the adequacy of the pecuniary interest provisions applying to the Members of Parliament and the need for and suggestions as to the content of a Code of Ethics.

Standing Ethics Committee of the Legislative Assembly

3.20 In pursuance of the ICAC (Amendment) Act, 1994 a Standing Ethics Committee was set up by the Legislative Assembly. The Committee's functions, as set out in the ICAC (Amendment) Act, 1994, are threefold. Firstly, the Standing Ethics Committee is to prepare draft Code of Conduct for Members of the Legislative Assembly. Secondly, the Committee is to carry out work relating to ethical standards and thirdly, the Ethics Committee is to give advice in relation to such ethical standards in response to requests for advice by the Members of the Legislative Assembly. The Committee undertook an extensive research on political ethics for developing the Code of Conduct for Members of the Legislative Assembly. After much deliberations, the draft Code of Conduct was released for public comment in June 1996 and was made available for viewing at public libraries across the State for a period of two months.

3.21 Although there is an Ethics Committee in each House with responsibility for drafting Codes of Conduct for their respective Members, the Legislative Assembly Standing Ethics Committee had opined that it would be desirable to have a single code which would apply to both the Houses of Parliament.

Administering the Code

3.22 The Legislative Assembly Standing Ethics Committee had put forward three models for administering the Code. However, the issue of who should administer the Code of Conduct was left to the House to debate and determine. The three models proposed by the Committee are as follows :—

(1) A Parliamentary Commissioner of Standards

The advocates of this model put forth the view that an independent Commissioner would ensure that the behaviour of Members was judged impartially and not along party lines. On the other hand, the opponents of this model held a view that it would be inappropriate for a non-elected official to oversee the behaviour of elected Members.

(2) An Ethics Committee

It is argued by those who support the Ethics Committee model that parliamentarians should be assessed by their peers, as they possess an understanding of the duties and practical realities of parliamentary life. Opponents of this proposal claim that politicians may misuse the code for political purposes and act with bias against members from other political parties.

(3) A Parliamentary Committee based on the Standing Orders and Procedure Committee

The Standing Orders and Procedure Committee is a Standing Committee of the House which conducts investigations into any aspect of the Standing Orders on its own motion or as referred by the House. The Committee consists of eleven members, including the Speaker, the Deputy Speaker and Chairmen of Committees, the Leader of the House, the Manager of Opposition Business, the Government, Opposition and National Party Whips.

It had been suggested that a resolution of the House could establish a mechanism for reference of any alleged breaches of the Code of Conduct to the Standing Orders and Procedure Committee for consideration and report to the House.

Other points of interest

3.23 The draft Code of Conduct also raises the issue of what sanctions should apply in case of breach of the Code. The Standing Ethics Committee found, during its inquiries, that those who were in favour of sanctions preferred expulsion or suspension from Parliament and fines. Although in the New South Wales Parliament, the Legislative Assembly does not have the power to impose fines, supporters of the imposition of sanctions believed it should be left to the people at election time, or to internal party processes. This issue is yet to be debated upon and determined in the House.

Complaints in respect of breaches of the Code

3.24 The issue as to where complaints in respect of a breach of the Code can come from is yet to be determined. This also is an issue for debate in the House. The current practice is that matters are raised in the House by Members. The issue for discussion would be whether any member of the public should be able to make a complaint through a nominated person such as the Clerk. The Standing Ethics Committee acknowledges that any person can at any time, make a complaint to the ICAC. The recommendations made by the Standing Ethics Committee regarding complaints are, that any resident of New South Wales should have the right to forward a complaint alleging a breach of the Code of Conduct and that a Member of the Legislative Assembly may also file a complaint directly, or may forward a complaint received from a constituent. It was recommended that a complaint must be in writing and dated, and the body receiving the complaint must provide a copy of the complaint to the Member named within seven days of receiving the complaint. Furthermore, the Standing Ethics Committee recommended that complaint must be made by statutory declaration and must be factual and set out in detail the alleged breach of the Code of Conduct and all evidence in support of that allegation. Complaints, which are frivolous, vexatious, trivial, offensive or anonymous should not be considered.

Standing Committee on Parliamentary Privileges and Ethics, Legislative Council

3.25 The Legislative Council is also seized of the matter. A Standing Committee on Parliamentary Privileges and Ethics in the Legislative Council is of recent origin. The Committee is seized of the matter regarding ethics.

Further action by the Legislature

3.26 The New South Wales Legislature has now to debate upon and sort out various ethics related issues. The possibility of formulation of a single code is also one of the issues for debate in the Legislature.

CHAPTER IV

ASPECTS OF CONDUCT/STANDARDS IN INDIA

In order to maintain the highest traditions in parliamentary life, Members of Parliament are expected to observe a certain standard of conduct, both inside the House as well as outside it. It is well recognised that conduct of Members should not be contrary to the Rules or derogatory to the dignity of the House or in any way inconsistent with the standards which Parliament is entitled to expect of its Members.

Provisions of Rules

4.2 In Lok Sabha, no definitive code of conduct for members has been laid down so far. However, ample provisions have been made in the Rules of Procedure and Conduct of Business in Lok Sabha for ensuring decorous and dignified conduct of members.

4.3 Some basic aspects of conduct, as laid down in the rules for Members, are—(i) Observance of rules of parliamentary etiquette; (ii) rules to be observed while speaking in the House; (iii) stipulation that questions are to be asked through chair; (iv) decorous conduct towards the chair; and (v) procedure to be followed while making allegations.

4.4 The House has the right to punish its members for their misconduct. It exercises its jurisdiction of scrutiny over its member for their conduct whether it takes place inside or outside the House. It has also the power to punish its members for disorderly conduct and other contempts, whether committed within the House or beyond its walls.

4.5 In the case of misconduct or contempts committed by its Members, the House can impose these punishments; admonition, reprimand, withdrawal from the House, suspension from the service of the House, imprisonment and expulsion from the House.

Pecuniary interests in matters before the House

4.6. A Member having a personal pecuniary or direct interest in a matter before the House is required, while taking part in the proceedings on that matter, to declare the nature of that interest. It is expected of the member, as a matter of propriety, to declare for himself whether by casting his vote in a division in the House on that matter, his judgement is likely to be deflected from the straight line of public policy by that interest.

4.7 Further more, where a member of a Committee has a personal, pecuniary or direct interest in any matter which is to be considered by the Committee, it is required of him to state his interest therein to the Speaker through the Chairman of the Committee

4.8 The money power has become a very crucial factor in the present day elections to legislatures. Consequently huge donations are needed and given to political parties by various persons/associations, etc. These result in escalation of election expenses. Besides, such donations have potential for unethical practices. The political party which receives substantial financial assistance for electoral expenses from persons/associations/ industrial and business concerns, etc. would definitely be under an obligation to their donors. The grim fact that these donors would in all likelihood extract their pound of flesh, cannot be shied away. The unhealthy aspects of money play in elections and the increase in electoral expenses adversely effect the very fabric of our democratic set up.

The Representation of People Act, 1951 does contain provisions dealing with election expenses (Chapter VIII of the Act). There are provisions for accounting of election expenses, ceiling limits thereon, filing account of expenses etc.

It has, however, been seen that election returns do not usually indicate the correct picture and more often than not, the members deliberately give a lesser estimate of electoral expenses that actually incurred. Consequently a member's very career seems to be starting with a false declaration.

On 21 February, 1997, in response to an USQ No.108 re. election expenses, the Minister of State in the Ministry of Law (Shri Ramakant D. Khalap) had informed the House that the Election Commission of India had recommended the repeal of explanation 1 to clause 1 of section 77 of the R.P. Act, 1951 and for enhancement, after review of the ceiling limit on election expenses.

Ad hoc Committees to examine conduct of Members

4.9 The House is empowered to appoint, from time to time, *ad hoc* Committees to consider and investigate the conduct of a member of the House and to find out whether such conduct was derogatory to the dignity of the House and inconsistent with the standards expected of members.

The Mudgal case

4.10 An *ad hoc* Committee of the House was appointed by the Provisional Parliament, in 1951, to investigate the conduct and activities of a member, Shri H.G. Mudgal, in connection with some of his dealings with a business association, which included canvassing support and making propaganda in Parliament on certain problems on behalf of that

association, in return for alleged financial and other business advantage. The Committee was directed by the House to consider whether the conduct of the member concerned was derogatory to the dignity of the House and inconsistent with the standards which Parliament is entitled to expect from members.

After extensive deliberations and recording the evidence of the member concerned, the Committee submitted its Report to the Speaker and it was thereafter presented to the House. The Committee found the member guilty of receiving monetary benefits for putting questions in Parliament, moving amendments to the Forward Contracts (Regulation) Bill and arranging interviews with Ministers, etc. In its report the Committee held that the conduct of Shri H.G. Mudgal was derogatory to the dignity of the House and inconsistent with the standards which Parliament was entitled to expect of its members. The Committee recommended expulsion of the member from the House.

The report was considered by the House on a motion moved by the Prime Minister on 24 September, 1951. Shri H.G. Mudgal also participated in the discussion on the motion. However, immediately after participating in the debate, he submitted his resignation from the membership of the House.

The following motion was thereafter unanimously adopted by the House:

“That this House, having considered the Report of Committee appointed on the 8th June, 1951 to investigate the conduct of Shri H.G. Mudgal, Member of Parliament, accepts the finding of the Committee that the conduct of Shri Mudgal is derogatory to the dignity of the House and inconsistent with the standard which Parliament is entitled to expect from its members, and resolves that Shri Mudgal deserved expulsion from the House and further that the terms of the resignation letter he has given to the Deputy Speaker at the conclusion of his statement constitutes a contempt of this House which only aggravates his offence.”

Procedure for Inquiry into Conduct of a Member

4.11 In 1951 the following procedure for inquiry into Conduct of a member was laid down by the Committee on the Conduct of Members, while deliberating upon the Mudgal case.

Anyone who has a reasonable belief that a member has acted in a manner which, in his opinion, is inconsistent with the dignity of the House or the standard expected of a member of Parliament, may inform the Speaker or the Leader of the House about it. The person making such an allegation is required first to make sure of his facts and base them on such authentic evidence, documentary or circumstantial, as he may have. He has to be careful in sitting and arranging facts because, if the allegations are proved to be frivolous, worthless or based on personal jealousy or animosity, directly or indirectly, he will himself be liable to a charge of the

breach of privilege of the House. Therefore it is of the utmost importance that allegations are based on solid, tested and checked facts.

When information regarding the alleged misconduct on the part of a member is received, the usual practice is that the Prime Minister examines the statement of charges and such further information as the Prime Minister may call for and if he is satisfied that the matter should be proceeded with, he gives a full and fair opportunity to the member to state his own version of the case, to disprove the allegations against him and to place before the Prime Minister such information as may assist him to come to a conclusion. After the member's explanation, oral or written, is received by the Prime Minister, he sifts the evidence critically. If the member has given adequate explanation and it is found that there is nothing improper in his conduct and he has cleared all the doubts, the matter may be dropped and the member exonerated. If the Prime Minister considers that a statement to that effect should be made in the House he may do so. If however, on the basis of the explanation given by the member and the evidence, it is proposed by the Prime Minister and held by the Speaker that there is a *prima facie* case for further investigation, the matter is brought before the House on a motion for the appointment of Parliamentary Committee to investigate the specific matter and to report to the House by the specified date.

However, if in the course of preliminary investigation it is found that the person making the allegations has supplied incorrect facts or tried to bring discredit to the name of the member wilfully or through carelessness, he is deemed to be guilty of a breach of privilege of the House.

Tulmohan Ram Case

4.12 In 1974, during the fifth Lok Sabha a question of privilege was sought to be raised against Shri Tulmohan Ram, a member, for alleged misconduct involving bribery and forgery by him in the Pondicherry Import Licence Case.

It was alleged by members that Shri Tulmohan Ram had received bribe for furthering the cause of import licence applicants in taking up the matter with the Government and forged the signatures of some members of Parliament. The Central Bureau of Investigation had also, after investigation, come to that conclusion. Shri Tulmohan Ram pleaded that since the matter had become *sub judice* it should not be discussed in the House at that stage.

In this context Speaker (5LS) *inter alia* ruled as follows:—

“It is a well established law that the rule of *sub judice* does not apply to matters of privilege or in matters where disciplinary jurisdiction of the House with respect to its own members is concerned..... In the present case the member has allegedly abused his position as a member of Parliament in sponsoring an

application to Government for money and also after forging signatures of other members. These allegations of bribery or forgery which have been *prima facie* established by the CBI are certainly very serious and unbecoming of a Member of Parliament, and he may be held guilty of lowering the dignity of the House.

I, therefore, hold that the House is free to discuss any motion relating to the conduct of Shri Tulmohan Ram and the rule of *sub judice* does not come in the way."

No notice for motion for inquiry into conduct of Member was, however, received.

4.13 It is well settled that Conduct of members involving corruption in the execution of their office as members is treated by the House as a breach of privilege. Thus, the acceptance by any member of a bribe as a member to influence him in his conduct as such member or of any fee, compensation or reward in connection with the promotion of, or opposition to any Bill, resolution, matter or thing submitted or intended to be submitted to the House or any Committee thereof is a breach of privilege. It would also be a breach of privilege or misconduct on the part of a member to enter into an agreement with another person, for a sum of money, to advocate and prosecute in the House the claims of such person.

Misconduct during President's Address to both Houses of Parliament

4.14 On two occasions—one in 1963 and the other in 1971, following disorderly conducts during the President's Address to both Houses of Parliament, *ad hoc* Committees were appointed to investigate the conduct of members in connection with the disorder created by them.

4.15 In 1963, five Members of Parliament created disorder at the time of the President's Address to both Houses of Parliament assembled together. On 19 February, 1963, the Speaker, Lok Sabha, nominated a Committee to investigate the conduct of the said five members at the time of the President's Address. The Committee, in their Report, presented to the House on 12 March, 1963, laid down certain norms of conduct for members at the time of the President's Address.

4.16 In 1971, when the President started reading the Address, under Article 87 of the Constitution, to both the Houses of Parliament assembled together, a Member of Lok Sabha interrupted him and created disorder. A Committee was nominated by the Speaker to look into the matter in all details, in pursuance of a motion adopted by the House on 2 April, 1971. The Committee, in their First Report, presented to the House on 15 November, 1971, were of the view that conduct of the Member concerned during the President's Address was improper and inconsistent with the dignity of the occasion and the standards of conduct which the House expects of its members. In view of the explanation given by the member, the Committee recommended that a lenient view may be taken

and the matter may be dropped. The Committee, in their Second Report, presented to the House of 14 April, 1972, formulated certain guidelines for the conduct of Members and maintenance of order, dignity and decorum on the occasion of President's Address to the House(s) of Parliament under articles 86 or 87 of the Constitution. [In an unanimous Resolution adopted at the Golden Jubilee Commemorative Session of Lok Sabha, on 1 September, 1997, it has been *inter alia* resolved that efforts at interruptions or interference with the address of the President, should be invariably desisted. (Particulars of the Resolution have been given in the Conclusions/Recommendations Chapter under the sub-heading 'Obligations')]

Present applicable Standards of Conduct

4.17 Highlights of some of the more important standards of conduct, as laid down in the draft code of conduct¹ are briefly mentioned below.

General rules of Etiquette—Members to desist from—shouting slogans; bringing or displaying arms in the House; distributing any literature not connected to the proceedings of the House in the precincts of the House; tearing of documents in the House in protest; sitting on satyagrah and dharna inside the House and in front of the House.

Rules to be observed while speaking—Members not to refer to *sub-judice* matters; use offensive expressions about the conduct of proceedings of the Parliament or any State legislatures; utter derogatory, treasonable, seditious words; reflect upon the conduct of persons in high authority unless the discussion is based on substantive motion drawn in proper terms; use the President's name for the purpose of influencing the debate.

Code of Conduct for Legislators during President's Address—Acts of discourtesy, disorderly conducts, interruptions and obstructions prohibited.

There are also stipulations in respect of Code of Conduct for legislators during the sittings of Parliamentary Committees and their study tours, during delegations to foreign countries and also Code of Conduct for legislators outside the Legislature.

4.18 While there hasn't been any definitive Code of Conduct for members, over the years there nevertheless came to be established certain norms in respect of Code of Conduct for legislators.

4.19 On the basis of these well established norms, sometime back a Code of Conduct was drafted and included in a paper entitled 'Discipline and Decorum in Parliament and State Legislatures', which was brought out by the Secretariat for reference and use of delegates at a two-day All India Conference of Presiding Officers and other Parliamentarians of the Legislative Bodies of India, held in New Delhi on 23 & 24 September,

1. May be seen at Appendix IX.

1993. [Further particulars have been given in the Conclusions/Recommendations Chapter under the sub-heading Obligations]

Initiatives in India towards constitution of Ethics Committees

4.20 Presiding Officers' Conference, 1996—At the Conference of Presiding Officers of Legislative Bodies in India, held in New Delhi in October 1996, the issue of ethics was in fact gone into in detail. The Resolution adopted at the Conference noted inter alia:

Conduct of the legislators inside and outside the Houses has come to be considered as a matter of very serious concern by the people in general. This has very grave implications for the dignity of the Legislatures and the future of democracy. In this context, the constitution of Ethics Committees by Legislatures for ensuring basic standards of probity of the Members should be examined with special reference to the establishment of such institutions by legislative bodies elsewhere in the world.

4.21 Ethics Committee, Rajya Sabha—An Ethics Committee of Rajya Sabha was constituted on 4 march, 1997. The Committee has nine members.

The Committee's remit is to oversee the moral and ethical conduct of the Members and to examine the cases referred to it with reference to ethical and other misconduct of Members.

The rules applicable to Committee of Privileges also apply to the Ethics Committee with such variations and modifications as the Chairman, Rajya Sabha may, from time to time, make.

4.22 *Symposium of Presiding Officers on Constitution of Ethics Committees*

As already mentioned, there was a unanimity among Presiding Officers about constitution of Ethics Committees in Legislative Bodies in India during their Conference in 1996. In 1997 following the Presiding Officers' Conference, a Symposium of Presiding Officers on 'Need for constitution of Ethics Committees in Legislatures' was held on 23 October, 1997 at Shimla.

The Members of the Committee of Privileges also attended the Symposium and Dr. Mallikarjun, Chairman, Sarvashri P. Upendra, Sat Mahajan, Satya Pal Jain, P. Kodandaramaiah, MPs putforth their considered views on the topic under deliberation. The Committee's presentation was received well by the delegates at the Symposium.

On the basis of the presentation by the Committee of Privileges and the views expressed by the Presiding Officers and legislators, the Symposium called upon the State Legislative Bodies to establish ethics Committees. (The Resolution unanimously adopted by the Presiding Officers may be seen at Appendix X).

Obligations of Members

4.23 An important facet of ethical practices is that of certain obligations which the Members have towards the electorate. Members of Parliament, as representatives of the people, have a responsibility towards their constituents. People have great expectations from their representatives for raising their concerns on the floor of the Parliament and to work for their resolution. For realisation of this objective, optimum utilisation of the forum of Parliament is a must. Moreover, participative deliberations during the proceedings of Parliament and its Committees, regular attendance during parliamentary and Committee deliberations, strict compliance of quorum and a basic commitment towards the electorate are imperative.

Ethical principles vis a vis electoral & other laws

4.24 In the context of deliberations on the aspects of Conduct and Standards, mention of ethical principles *vis a vis* electoral and other laws as also a recent matter in Lok Sabha having ethical implications becomes relevant. The same have been dealt with in some detail in the following paragraphs.

Jharkhand Mukti Morcha Case

4.25 The Jharkhand Mukti Morcha case which relates to alleged acceptance of inducements by some members for voting in a particular manner in the House, has *inter alia* raised some constitutional and ethical issues. Had there been in existence at the relevant point of time a parliamentary committee for dealing with ethics matters, this case would have in all probability been referred to such a Committee for investigation and examination.

A brief outline of the case based on the press reports is given as under:

Four members of Jharkhand Mukti Morcha *viz.* Sarvashri Sailendra Mahato, Suraj Mandal, Shibu Soren and Simon Marandi—were accused of taking bribe to vote against the no-confidence motion against Shri Rao's Government in Parliament in 27 July, 1993. The High Court of Delhi directed the Central Bureau of Investigation to investigate into the allegations on a public interest litigation filed by Rashtriya Mukti Morcha (RMM).

During 16th Session (10 LS), on 11 March, 1996 a question of privilege was sought to be raised in the House regarding the issue of alleged pay off and inducements of members to JMM for not voting in favour of the No-Confidence Motion. The then Speaker while disallowing the notice observed "...the matter is before the Court which may take a proper decision on the basis of evidence that may be produced before it."

During the proceedings in the High Court in the case, the concerned four Members of JMM, through their counsel, argued that since their vote in Parliament was a matter of privilege, the courts could not examine their decision to vote in a particular way and that the court had no jurisdiction to inquire into any proceedings of the Parliament as per the provision of articles 105 and 122 of the Constitution of India.

Dismissing this contention, the Special Judge (Shri Ajit Bharihoke) said that Article 105 of the Constitution provided an immunity to the Members of Parliament to speak and express their views in the House freely and frankly without having any fear of being made liable for any utterance

proceedings. But this does not mean that Article 105 of the Constitution has given any immunity to the Members of Parliament in respect of any offence committed under the Prevention and Corruption Act or the Indian Penal Code., the Judge in his order said. The order reportedly said that it could never be the object of the Constitution to allow any Member of Parliament to a mass assets or money by corrupt or illegal means with immunity under the shelter of Article 105 of the Constitution.

As it present the matter is *sub judice*.

Criminalisation of Politics

4.26 The incidence of criminalisation of politics is threatening the very credibility and stability of our democratic institutions. For checking this malaise, there have been of late some serious initiatives.

The provisions in respect of disqualification from membership of Legislature is laid down in articles 102 and 191 of the Constitution of India. These articles *inter alia* provide that a person shall be disqualified for being chosen a Member, if he is so disqualified by or under any law made by the Parliament.

The Parliament has enacted the Representation of the People Act, 1951. Section 8 of the Act specifies the disqualifications on grounds of conviction for certain offences. Section 8 as it stands in the statute book, covers conviction for offences in four different categories in four sub-sections. One, those convicted for offences of promoting enmity between different groups and disturbing harmony, bribery, rape, cruelty towards women, practicing or preaching untouchability, drug trafficking, FERA violation, using undue influence, booth capturing, impersonation at elections and terrorist acts shall be disqualified for a period of six years from the date of conviction. Two, those convicted and sentenced to imprisonment for not less than six months for offences like hoarding or profiteering, adulteration of food or drugs, or violation of dowry prohibition and commission of sati laws shall be disqualified from the date of conviction and for six years after release. Three, those imprisoned for not less than two years for any other offence shall be disqualified from the date of conviction and for six years after release. Four, in case of sitting members who are convicted after being elected, disqualification shall not be operative for three months after conviction or, if a revision or appeal is filed during the period, until the appeal is finally decided.

The Election Commission of India, in its recent order have stipulated that those who are convicted for certain offences could be debarred from contesting elections. The returning officers for future elections have been directed to reject nomination papers of those who have been convicted regardless of any appeal pending. The only exception to be made, as per the law, is that of "sitting MPs and MLAs".

The issue was also discussed by Parliament in its special session and emphasis was laid on breaking the nexus between politicians and criminals.

The Government has promised an electoral reforms bill in this regard. It has also constituted a committee to act on the report of the N. N Vohra Committee which explored the nexus between politicians and criminals.

Anti-Defection Law

4.27 The Tenth Schedule to the Constitution, popularly known as the Anti Defection Law was introduced in 1985, through an amendment of the Constitution of India to achieve a specific purpose viz. to contain the unethical acts of defections in the national political life, which in the common parlance was known as Horse trading and "Aya Rams and Gaya Rams".

It is a fact that in about a decade of implementing the Anti Defection Law, the Legislative Bodies in India have faced a lot of difficulties which have underscored the various lacunae, ambiguities and shortcomings in the law. These lacunae and ambiguities have been largely responsible for varied interpretation of various provisions of the law at the hands of Presiding Officers which has often invited criticism. One of the areas open to criticism in the Anti Defection Law is that while individual defections are punished, collective defections are condoned in the name of splits.

Much of the ambiguities *vis a vis* interpretations by the Presiding Officers, therefore, relate to splits/mergers in Legislature/Political parties.

Splits preceding mergers highlight a glaring instance in this respect. Para 3 of the Tenth Schedule provides that for a valid split, a faction arising out of split should comprise not less than 1/3rd members of the legislature party concerned. Law further provides that there should also be a corresponding split in the political party. This was often ignored. Para 4 provides that a valid merger can take place only if not less than 2/3rd members of the legislature party concerned agree to merge.

There are quite a few cases, where members first effected split and thereafter a merger of the splitaway group with another legislature party. Presiding Officers, though aware of the machinations, have had no other option in such cases but to allow such mergers. In such cases though there may not literally appear any flouting of provisions of Paras 3 and 4 of the Tenth Schedule such practices negate the very rationale behind the Anti Defection Law.

PART B

CHAPTER V

PARLIAMENTARY PRIVILEGES IN U.K., U.S.A. & AUSTRALIA

5.1 As the Parliament of the United Kingdom is considered to be the mother of Parliaments of the world, it will be in the fitness of things that we turn to the United Kingdom to trace the genesis and development, through ages, of parliamentary privileges.

Parliamentary Privileges in United Kingdom

5.2 The House of Commons, originally the weaker body had a fiercer and more prolonged struggle for the assertion of its own privileges, not only against the Crown and the courts, but also against the Lords. What originated in the special protection of the king began to be claimed by the Commons as Customary rights, and some of these claims in the course of repeated efforts to assert them hardened into legally recognized 'privileges', which could be used by the Commons and against threats to their independence from any direction.

5.3 The Commons, from the beginning of the fifteenth century at the latest, claimed their privileges as prescriptive and according to the 'custom of the realm,' and as based, like those of the Lords, on the law and custom of Parliament.

5.4 In 1543, the Commons relied on their own authority to liberate one of their Members. At the end of the century the principle had been established that a matter concerning either House of Parliament ought to be decided in the House to which it relates and not elsewhere.

5.5. The two Houses are, thus, of equal authority in the administration of a common body of privileges. Each House, as a constituent part of Parliament, exercises its own privileges independently of the other. They are enjoyed, however, not by any separate right peculiar to each, but solely by virtue of the law and custom of Parliament.

5.6 In the United Kingdom, the privileges of Parliament have not been codified so far. There, the privileges of Parliament are based largely upon custom and precedents. No attempt has at any time been made in the United Kingdom to codify the entire law of Privilege. The privileges of Parliament in the United Kingdom consist, in fact, of rights acquired by custom or conferred by statute belonging to the House collectively or to its members as individuals and having for their object the freedom, the security or the dignity of the House of Commons; these privileges are

declared and expounded by each House of Parliament and breaches of Privilege are adjudged and censured by each. Although either House may expound the law of Parliament and vindicate its own privileges, it is agreed that no new privileges can be created. In 1704, the Lords communicated a resolution to the Commons at a conference "that neither House of Parliament has power, by any vote or declaration, to create to themselves new privileges not warranted by the known laws and customs of Parliament" which was assented to by the Commons.

5.7 On 5 July, 1966, the House of Commons appointed a Select Committee on Parliamentary Privileges 'to review the law of parliamentary Privilege as it affects this House and the procedures by which cases of privileges are raised and dealt with in this House and to report whether any changes in the law of privilege or practice of the House are desirable.' The Committee was re-appointed at the beginning of the following Session and made its Report on 1 December, 1969.

5.8 The Report contained recommendations relating to the scope of privilege and the practice of the House with regard to alleged contempts. The House made no immediate decisions on the Committee's recommendations but on 27 January, 1977, referred them to the Committee of Privileges. The Committee's Report was debated on 6 February, 1978 when the House adopted the Committee's recommendations.

Parliamentary Privileges in the United States of America

5.9 The United Kingdom and the United States of America have a common historical background. By the time the American Constitution came to be written, the two major privileges *viz.* freedom from arrest and freedom of speech, enjoyed by the Members of two Houses of Parliament of the United Kingdom, had been established, both by custom and by statute. The same two provisions were made for Members of both Houses of American Congress, Senators and Representatives. Article I(6) of the American Constitution postulates...

"They (the Senator and Representatives) shall, in all cases, except treason, felony and breach of the peace, be privileged from arrest during their attendance at the session of their respective Houses and in going to and returning from the same."

This provision corresponds broadly to the position in Britain in the eighteenth century.

5.10 The privilege of freedom of speech, too, is enshrined in the US Constitution. According to the same Article (6):

“for any speech or debate in either House. they [Senators and Representatives] shall not be questioned in any other place.”

This is substantially the language of section 9 of the Bill of Rights. As in Britain, this privilege is held to cover anything said or done by a Member of Congress in the exercise of his parliamentary functions.

5.11 The British Parliament and the US Congress both enjoy broadly the same privileges. But, in Britain, a further power resides in each House of Parliament, namely, the power to arrest a person and punish him for contempt. Even if the order or warrant on which he has been arrested does not state the cause of his arrest, the courts of law will not look behind it nor inquire into the reasons why he was found guilty of the contempt. In such cases, it is presumed that the order of warrant has been duly issued unless the contrary appears on the face of it. In the United States, by contrast each House of Congress is circumscribed by the grant of powers in the Constitution, and such action as it takes has to be within the scope of those powers. The power to punish for contempt is restricted in this sense.

5.12 Yet, the current attitude of each legislature towards its privileges and immunities is probably very much the same.

5.13 At present, in UK Parliament, as in US Congress, there is a growing tendency to lean upon the protection of privileges as little as possible, and to exercise with restraint their considerable powers in the context of public criticism of their activities.

Parliamentary Privileges in Australia

5.14 The Commonwealth Parliament of Australia has not as such codified the law relating to privilege and contempt. Nevertheless, the Parliamentary Privileges Act, 1987 has brought about significant statutory changes affecting a number of traditional privileges most importantly concerning the privilege of freedom of speech.

5.15 Australia's Constitution gives the Houses, their Committees and Members, until the Parliament otherwise declares, the powers, privileges and immunities of the United Kingdom's House of Commons and its Committees and Members as at the time of Federation (1901). This constitutional provision, in way, mirrored the provisions which applied in several other Parliaments in the Westminster tradition. It ensured that the Parliament operated with all the important privileges and protections that it needed. In many ways, the arrangement worked well. In the first several decades of Federation, few true privilege problems seem to have arisen—indeed it was not until 1944 that the House found it necessary to appoint a Committee of Privileges, and the Senate did not have such a Committee until 1966.

5.16 In March 1982, a Joint Select Committee was established to review all aspects of the law and practice of parliamentary privileges. The issue of

codification was examined in depth. The Committee first considered the question of just what powers, privileges and immunities were needed by the modern Parliament. It did not recommend that a statutory code be drawn up, and it did not want to displace the basic link with the powers, privileges and immunities of the House of Commons. But it felt some changes were necessary. The Committee considered the area of contempts (or as it described them 'offences against the House') separately. The Committee recommended that each House should retain responsibility for the consideration of complaints of breach of privilege or contempt, although it recommended a number of procedural changes.

5.17 There had been extensive deliberations in the legislature over the codification issue. A view was taken that if legislation were to be introduced to reassert Parliament's view in this particular matter, opportunity should also be taken to give effect to those recommendations of the Joint Select Committee which needed to be implemented by statute. Accordingly, a Parliamentary Privileges Bill was prepared and, after consultation with interested Members, was agreed between the President of the Senate and the Speaker of the House. In a very unusual step, but one which signified the importance of the measure in institutional terms, the Bill was presented in the Senate by President, Mr. McLelland on 4 June, 1986. It was passed by the Senate in October, and sponsored in the House by Speaker, Mr. Child. It was finally passed by the House in March, 1987.

5.18 *Parliamentary Privileges Act, 1987 — A gist*

The Parliamentary Privileges Act 1987 of Australia includes the following provisions:

the powers, privileges and immunities enjoyed by the Houses and their Committees and members by virtue of section 49 of the Constitution are to continue in force, except as expressly varied by the Act;

a requirement that conduct does not constitute a contempt 'unless it amounts' or is intended or likely to amount to improper interference with the free exercise by a House or Committee of its authority or functions or with the free performance by a Member or the Member's duties as a Member-in other words a statutory threshold has been set;

the traditional category of contempt by defamation is abolished;

the Houses are given the powers to impose fines of \$ 85,000 or 825,000 in the case of natural persons and corporations, respectively, and to imprison persons for up to 6 months;

a defence of qualified privilege is provided for reports of proceedings;

statutory provisions for the protection of witnesses are established, with very substantial penalties;

the immunities from arrest in civil matters and attendance before the courts as witnesses are reduced to sitting days and 5 days before and after sitting days, etc; and

doubts about the application of ordinary laws in Parliament House are removed (section 15).

CHAPTER VI PRIVILEGES AND FACILITIES IN INDIA

Privileges

Constitutional provisions

6.1 Article 105 of the Constitution which provides for the powers, privileges and immunities of the Houses of Parliament and of the Members and the Committees thereof, reads as follows:

- (a) Subject to the provisions of this Constitution and to the rules and standing orders regulating the procedure of Parliament, there shall be freedom of speech in Parliament.
- (2) No Member of Parliament shall be liable to any proceedings in any Court in respect of anything said or any vote given by him in Parliament or any Committee thereof, and no person shall be so liable in respect of the publication by or under the authority of either House of Parliament of any report, paper, votes or proceedings.
- (3) In other respects, the powers, privileges and immunities of each House of Parliament and of the Members and the Committees of each House, shall be such as may from time to time be defined by Parliament by law, and, until so defined shall be those of that House and of its Members and Committees immediately before the coming into force of section 15 of the Constitution (Forty-fourth Amendment) Act, 1978.
- (4) The provisions of clauses (1), (2) and (3) shall apply in relation to persons who, by virtue of this Constitution, have the right to speak in, and otherwise to take part in the proceedings of a House of Parliament or any Committee thereof as they apply in relation to members of Parliament.

6.2 The corresponding provisions relating to the powers, privileges and immunities of the Houses of State Legislatures and of the Members and Committees thereof are contained in Article 194 of the Constitution which are in identical terms of those in Article 105 relating to Parliament.

Constitution (Forty-fourth Amendment) Act, 1978

6.3 Section 15 of the Constitution (Forty-fourth Amendment) Act, 1978 came into force with effect from 20 June, 1979. Prior to that, clause (3) of Article 105, provided that "in other respect, the powers, privileges and immunities of each House of Parliament, and of the Members, and the Committees of each House shall be such as may from time to time be

defined by Parliament by law, and, until so defined, shall be those of the Houses of Commons of the Parliament of the United Kingdom, and of its Members and Committees at the commencement of the Constitution, i.e. 26 January, 1950.”

Privileges governed by precedents of House of Commons, UK

No law has so far been enacted by Parliament (and State Legislatures) in pursuance of clause (3) of article 105/194 of the Constitution to define the powers, privileges and immunities of each House and of the Members and the Committees thereof. In the absence of any such law, therefore, the powers, privileges and immunities of the Houses of Parliament and State Legislatures and of the Members and the Committees thereof continue in actual practice to be governed by the precedents of the British House of Commons as they existed on the date our Constitution came into force.

Codification of parliamentary privileges

6.4 The question of undertaking legislation of the subject has engaged the attention of Presiding Officers since 1921. The matter has also been considered from time to time at the Conferences of Presiding Officers. The matter was also considered at the Conference of Chairmen of Committees of Privileges of Legislative Bodies in India held at New Delhi in March, 1992.

6.5 The Committee of Privileges, at their sitting held on 11 May, 1992, informally considered the matter relating to the demand for Codification of Parliamentary privileges. Members felt that though the Legislatures in India had consistently declined to codify their privileges, it was time, especially in the changing socio-political scenario, to take a fresh look at the whole issue. The matter was accordingly taken up by the Committee for examination with the approval of Speaker, Lok Sabha. The Committee adopted their draft Report on the issue of 'Codification of Parliamentary Privileges' on 18 July, 1994 and the same was laid on the Table of the House on 19 December, 1994. The Committee, in this Report, recommended that it is not advisable to codify Parliamentary privileges. Before arriving at this conclusion, the Committee considered the matter in depth. The Committee obtained the opinion of eminent persons from a cross-section of society on the question of codification of Parliamentary privileges. The Committee also undertook an indepth study of various cases of privileges in Parliament and considered in detail other connected matters. On the basis of findings emanating therefrom the Committee felt that the ground reality is entirely opposite to the picture projected in so far as allegations of the misuse of Parliamentary privileges are concerned. The Committee also held the view that the legislature's power to punish for

contempt is more or less akin and analogous to the power given to the courts to punish for their contempt. The Committee, therefore, felt that what constitutes a breach of privilege or contempt of House can be best decided according to the facts and circumstances of each case rather than by specifying them in so many words. In view of the foregoing, the Committee recommended against codifying parliamentary privileges.

6.6 It is, therefore, seen that the view that there is no necessity for codifying parliamentary privileges is based on a considered opinion formulated after due deliberations on various aspects involved therein.

Rights and Facilities of Members

6.7 The status of a Member as an 'elected representative of people' is an exalted one. Privileges and a privileged position also entail responsibilities. Hence the relevance of Ethics in public life. Ethics and privileges are, therefore, inter-linked.

6.8 Privileges are needed for proper exercise of the functions entrusted to Members of Parliament by the Constitution. Privileges are granted to Members in order that they are able to perform their duties without any let or hindrance. In a democratic set-up Members personify the collective will, thought and voice of the people who chose them as their representatives. On the basis of this fundamental precept rests the importance and significance of the privileges and immunities of Members.

Responsibilities towards people

6.9 People have great expectations from their elected representatives, for not only voicing their concerns in Parliament, but also to strive for their causes in various fora. In view of the multifaceted obligations thrust upon the members, they have to interact with various officials and authorities of the executive and other bodies.

6.10 Members can rise up to the expectations of their constituents only if they are able to perform unfettered their duties towards the people who have elected them as their representatives.

Hence the oft-felt need for adequate empowerment and additional rights to Members.

Official dealings between Administration and Members of Legislatures

6.11 As mentioned earlier, while taking up the matters of their constituents, the members have to often interact with various executive functionaries. In order to ensure observation of proper procedure in respect of official dealings between the Administration and Members of Legislatures, various guidelines/instructions have been issued from time to time by the Central Government. Non-compliance of these instructions/guidelines, more often than not, tend to frustrate the members' endeavours for public service. There have been complaints from members that their letters to the executive functionaries are not acknowledged and

that replies to their letters are not sent in time and not signed by the persons to whom they are addressed. There have also been complaints from members regarding non-extension of due courtesies. There have been frequent instances of protocol violations with respect to seating arrangements, etc. during functions/meetings organised by the Central/State Government/District Administration and Zila Parishads. A need has been felt for strict observance of the Union Government's instructions/guidelines regarding official dealings.

Implementation of the Guidelines

There is, therefore, a strong feeling that a mechanism should be evolved to make the guidelines enforceable and violations thereof should be made punishable. This proposition, however, has far reaching ramifications in as much as it tends to redefine the legislators' role in our polity. It is for this reason that the Study Group has sought to elicit opinion of various categories of people on most of the above aspects, through a questionnaire.

Members of Parliament Local Area Development Scheme

6.12 Members of Parliament Local Area Development Scheme, MPLADS for short, is an endeavour towards effective participation of Members in the development and welfare works in their constituencies. Under the MPLADS, Members are empowered to suggest, within the parameters of guidelines laid down in this regard, various development projects of their choice, in respect of their parliamentary constituencies to the concerned districts authorities for implementation, out of funds allotted to them under this scheme. There have, however, been several complaints from Members in respect of non-implementation or delay in implementation of their projects under MPLADS and impediments caused by the concerned district authorities. The recently issued guidelines regarding MPLADS, as approved by the Hon'ble Speaker, Lok Sabha and Hon'ble chairman, Rajya Sabha, *inter-alia* provide that wilful delay in the implementation of the scheme would be deemed to be contempt of Parliament on the part of the officials concerned. This stipulation in the revised guidelines underscores the importance of MPLADS. The revised guidelines are, however, yet to be adopted by the Government.

Welfare schemes sponsored by the Central Government

6.13 As elected representatives of people, Members of Parliament have a responsibility for the development and welfare of their constituencies and constituents. Even though the implementation and monitoring of Central Government schemes, lie within the jurisdiction of the concerned executive authorities, people pin their hopes on their elected representatives for expeditious implementation of these schemes. In this context, Members have to often interact with the district and other Government authorities and there is no dearth of instances when on such occasions, Members' endeavours come to a naught due to non-cooperative attitude of the

officers concerned. This results in a piquant situation where Members are unable to adequately contribute in the developmental works of their constituencies.

6.14 Various schemes such as Indira Awas Yojna, Prime Minister's Rozgar Yojna, Jawahar Rozgar Yojna and Employment Assurance Scheme are financed by the Central Government but implemented by the State Government. There has been consistent demand from members of Parliament that they should be allowed to play a decisive role in the implementation of the schemes sponsored by the Central Government.

Warrant of Precedence—demand for upgradation of members' positioning

6.15 As per the present warrant of Precedence (issued by the President's Secretariat), Members of Parliament are positioned at serial No. 21. There have been quite a few complaints to the Hon'ble Speaker from the Members in respect of incidents of misbehaviour, discourtesy, protocol violations, on the part of the executive functionaries. Members feel that such an attitude tends to denigrate their rightful status and also frustrates their endeavours in public service. Against this backdrop a dominant view among members is that in order to accord them their due status, it becomes imperative to review and upgrade the existing positioning of Members of Parliament in the Warrant of Precedence.

SALARIES AND FACILITIES OF MPs

6.16 The governing law in respect of Salary and Allowances of Members is the Salary, Allowances and Pension of members of Parliament Act, 1954. (as amended from time to time). Of late, views are being expressed on the adequacy or otherwise of the salary, allowances and facilities enjoyed by the Members. The particulars of entitlement of salary and other allowances till recently are as under:—

1. *Salary* —Rs. 1500/- p.m. payable during he whole term of office.
2. *Constituency Allowance* —Rs. 3000/- p.m. payable during the whole term of office.
3. *Office Expense Allowance* —Rs. 1000/- p.m. payable during the whole term of office.
4. *Daily Allowance* —Rs. 200/- per day for the period of residence on duty. Member is entitled to daily allowance only when he signs the register maintained for the purpose.
5. *Travelling Allowance* (i) Forward Journey — for attending a Session of a House of Parliament or a meeting of a Committee or for the purpose of attending to any other business connected with his duties as a Member from usual place of residence of the Member to Delhi.
 - (a) By rail — one first class and one second class fare.
 - (b) By road — Rupees five per Km. Member is paid a minimum amount of one hundred and twenty rupees for the journey he performs by road in Delhi from and to an aerodrome.
 - (c) By air — one and one-fourth air fare.

- (ii) Return Journey — after attending a Session, Committee meeting or any other business connected with his duties as such member from the place of duty to the usual place of residence same as 5 (i) above.
- (iii) Air Journeys — Twenty-eight single air journeys during a year to be availed of during Session/Inter-Session with Companion or Spouse.

6. *Travel Facilities*

- (a) Railway Pass — one free non-transferable air-conditioned two tier pass which entitles him to travel at any time by any railway in India with a companion.
- (b) For Spouse — one free non-transferable (air-conditioned two tier) railway pass for the spouse, if any, of the Member to travel from the usual place of residence of the member to Delhi and back once during every Session, and if such journey or any part thereof is performed by air, an amount equal to the fare by air for such journey or part thereof.

7. *Telephone Facilities*

- A Member is entitled to have two free telephones one at his residence or office in Delhi and the other at his usual place of residence or a place selected by him in his constituency or the State in which he resides. 25,000 local calls during a year are free to a Member on each of the two telephones *i.e.* 50,000 local calls clubbed together.

8. *Conveyance Advance*

- Rs. 50,000 advance for the purchase of a conveyance. Recovery of the said advance together with interest thereon shall be made from the salary bill of the member in not more than sixty equal monthly instalments which shall not extend beyond tenure of his membership.

9. *Water and Electricity* — Water and Electricity are free upto 7200 units of Electricity (3600 units measured on light meter and 3600 units measured on power meter). Electricity is supplied without payment of charge upto 7200 units measured on light meter per annum only to those Members of Parliament whose residence have no power meters installed. And 1000 K.L. of water is free per annum beginning 1st of January, every year in respect of residence allotted to MPs in Delhi/New Delhi and MPs who are residing in private accommodation in Delhi.
10. *Accommodation* — Accommodation in the form of a flat is free throughout the term of office of an M.P. However, licence fee is charged on bungalow.
11. *Medical* — Members of Parliament are entitled to same medical facilities as are available to the officers of Central Civil Services, Class I under contributory Health Service Scheme.

The Joint Committee on Members Salaries and Allowances. (Tenth Lok Sabha) had undertaken an indepth study of the various aspects involved in this respect and also took into view the position obtaining in various foreign legislative bodies. On the recommendations made in respect of increase in Allowances and Facilities to Members of Parliament, the Government of India *vide* the General Statutory Rules dated 30 August, 1997, had agreed to the following allowances and facilities to the Members of Parliament.

- (i) Constituency Allowance increased to Rs. 6,000/per month;
- (ii) Office expense allowance increased to Rs. 5,500/- per month, out of which Rs. 1,500/- should be for meeting expenses on stationery items, etc. and Lok Sabha/Rajya Sabha Secretariat may pay Rs. 4,000/- to the person(s) as may be engaged by a Member of Parliament for obtaining secretarial assistance;
- (iii) the number of free telephone calls increased to 1,00,000 per annum;
- (iv) (a) Washing of sofa cover and curtains every 3 months;
(b) Provision of Tiles in bath rooms and kitchens wherever demanded by MPs;
(c) Furniture to be made free with modification that MPs will not be charged concessional rent for use of furniture, but within the existing monetary ceiling;
- (v) (a) 15,000 units of electricity per annum (7,500 units each on light/ power meters or pooled together); and
(b) 2,000 kilolitres of water per annum free of charge.
- (vi) C.G.H.S. contribution at the same rate as would be payable by the highest Civil Servant.

PART C

CONCLUSIONS/RECOMMENDATIONS

In view of the factual position and observations stated in the preceding chapters, the Study Group has come to certain conclusions which are broadly categorised under three headings viz. Ethics/Standards; Obligations and Privileges & Facilities. A detailed account of the Study Group's conclusions, together with its recommendations, are given below:

I ETHICS/STANDARDS

1. In order to maintain high traditions in Parliamentary life, members of Parliament are expected to observe a certain standard of conduct, both inside the House as well as outside. It is in this context that the concept of ethics and standards for legislators assumes relevance and significance. The Study Group is of the view that ethics related issues should be dealt with by a parliamentary committee in Lok Sabha. Since privileges, obligations and ethics are all interrelated it would be in the fitness of things if matters relating to these are dealt with by a single committee. The Study Group, therefore, recommends that: the Committee of Privileges may be renamed as the Committee on Ethics and Privileges. Members of the Committee may be appointed by the Speaker, Lok Sabha on the basis of their standing, experience, general reputation and suitability and not necessarily on the basis of proportionate strength of the parties or on the basis of party nominations.

Procedure

2. The Study Group is of the view that the detailed rules of procedure for dealing with complaints relating to the unbecoming conduct of a Member or his unethical behaviour may be laid down separately and incorporated in the Rules of Procedure and Conduct of Business in Lok Sabha. For this purpose, the Study Group recommends the following broad parameters on which the said rules may be based:—

- (a) A complaint relating to the unethical conduct of a Member may be addressed to the Speaker who may forward it to the Chairman, Committee on Ethics and Privileges.

- (b) Any person may make such a complaint to the Speaker.
- (c) It shall be incumbent upon the complainant to ensure that—the complaint is not false, frivolous, vexatious and is made in good faith. An affidavit to this effect shall accompany the complaint.
- (d) Complaints relating to unethical conduct of the Speaker may be made to the Deputy Speaker who may forward it to the Chairman of the Committee on Ethics and Privileges.
- (e) The House may also refer complaints relating to unethical conduct of members, on a motion, to the Committee on Ethics and Privileges, for examination and report.
- (f) The Committee may also *suo motu* take up for investigations matters relating to ethics and breach of privilege and contempt of the House, wherever felt necessary.
- (g) The Committee shall examine all the matters referred to it and also those taken up by it *suo motu*.
- (h) The procedure to be followed by the Committee for the purpose of examining complaints of unethical conduct of members, may, as far as possible, be the same as the procedure for enquiry and determination of any question as to breach of privilege of the House or a member.

Investigating Agency

3. Ethical matters tend to extend beyond the parliamentary confines. It is in this context that an investigating agency, appointed under the authority of the House, for assisting and guiding the Committee on Ethics and Privileges becomes relevant.

4. In pursuance of Nolan Committee's recommendations to introduce an independent element into the House's system of self regulation, the House of Commons, U.K. had created a post of Parliamentary Commissioner for Standards in Public Life. The Commissioner is an officer appointed by the House, who is *inter alia* charged with investigating complaints against members and reporting to the Committee on Standards and Privileges.

5. The Parliamentary Commissioner on Standards in Public Life, an Ombudsman—like authority, is actively involved in ensuring ethical conduct among parliamentarians in UK.

Lokpal

6. In India, while the proposal for creation of Lokpal (the Indian version of Ombudsman) was first mooted in 1968, it hasn't been possible to enact the requisite legislation paving the way for setting up the institution of Lokpal. In the Eleventh Lok Sabha, the Lok Pal Bill, 1996, was introduced in September, 1996. As per the statement of objects and reasons of the Bill, the Lokpal will inquire into complaints containing allegations that a public functionary, as defined in the Bill, has committed an offence punishable under the Prevention of Corruption Act, 1988 and the expression "public functionary" covers the Prime Minister, Ministers, Ministers of State, Deputy Ministers of the Union and Members of Parliament. The Bill has since been examined by the Standing Committee on Home Affairs which has already presented its Report to the House.

7. The present provisions in the Lokpal Bill, 1996 with regard to complaints made against Members of Parliament with the Lokpal may be taken note of. Interm of section 17 (1)(b) of the Lokpal Bill, 1996, if the Lokpal, after inquiry in respect of a complaint, is satisfied that all or any allegations made in the complaint have been substantiated, either wholly or partly, it has to report its findings and recommendations to the competent authority and intimate the complainant, and the public functionary about its having made the report. In terms of section 17(3) of the Bill, the Speaker, in the case of a Member of Lok Sabha, and the Chairman Rajya Sabha, in the case of a Member of Rajya Sabha, is the competent authority. It has been further laid down that the Speaker, Lok Sabha/Chairman, Rajya Sabha, shall as soon as may be after and in any case not later than 90 days from the receipt of the Report under section 17(1)(b), cause the same to be laid before Lok Sabha or Rajya Sabha as the case may be.

8. It is the considered opinion of the Committee of Privileges that the Lokpal may be empowered to deal only with the complaints which fall under the provisions of the Prevention of Corruption Act, 1988.

The Committee recommends the following procedure for investigation of the above mentioned complaints under the Prevention of Corruption Act:—

- (i) Lokpal may enquire into all cases against Members of Parliament falling under the provisions of the Prevention of Corruption Act;
- (ii) Complaints may be filed with the Lokpal either directly or through the Committee on Ethics and Privileges or may be referred to the Committee by the Speaker/House;
- (iii) Where complaints under the Prevention of Corruption Act are filed with the Committee on Ethics and Privileges, the same may be straightaway referred by the the Chairman of the Committee to the Lokpal for investigation and report;
- (iv) After due investigation on all such complaints, the Lokpal may forward its report and findings to the Speaker, Lok Sabha;
- (v) The Speaker may refer all such reports to the Committee on Ethics and Privileges for suggesting requisite action;

- (vi) The Committee on Ethics and Privileges may report back to the Speaker with its suggestions for action on such matters; and
- (vii) The Speaker may then cause the Report of the Lokpal with due suggestions for action made thereon by the Committee on Ethics and Privileges, on the Table of the House.

In view of the foregoing the Committee of Privileges recommends that the Lokpal Bill, 1996 may be suitably amended.

9. The Committee of Privileges also recommends that all other ethics related complaints may be solely dealt with by the Committee on Ethics and Privileges.

The Committee further recommends that the Committee on Ethics and Privileges may utilise the services of any investigating agency in connection with the matters under its consideration, wherever felt necessary.

Ethical principles vis a vis electoral & other laws

10. Ethical principles are equally applicable to elections to Legislatures which are pivotal in any democracy. These elections also present the severest test for any prospective legislator. As stakes are high during all elections to Legislatures, the determination or rather the desperation of the candidates as well as the political parties sponsoring their candidature, has of late led to electoral malpractices, for instance misuse of moneypower during elections and criminalisation of politics. Such a state of affairs tends to negate the very credibility of democratic institutions which hinges by and large upon free and fair elections to Legislatures. The Study Group has accordingly touched upon these aspects and come up with certain recommendations on electoral expenses, criminalisation of politics and Anti-Defection law.

Electoral Expenses

11. The Study Group is of the view that the existing provisions in the electoral laws of the land and also the initiatives taken so far for checking the trend of escalating election expenses and their consequential fall-outs have not been proved to be quite adequate.

The Study Group is of the view that there is an urgent need for—

- (a) raising the ceiling limit of election expenses for members of Parliament to Rs. 15 lakhs, immediately and thereafter to revise the same every five years;
- (b) insistence upon filing of accurate election returns and setting up machinery for verification of the same;
- (c) provision for mandatory declaration of all donations/financial assistance received by individual Members from political parties and others at the time of election.

The Representation of People Act, 1951 may be amended for implementation of the above proposals.

Criminalisation of Politics

12. The Study Group expresses its deep concern over the incidence of criminalisation in our polity which is eating into the very vitals of our democratic system. Consequently the very credibility of our democratic institutions is at stake which calls for immediate corrective measures. Towards this end the Study Group recommends that:

- a. There is an urgent need for comprehensive electoral reforms on the basis of all party discussions and consensus. The matter may be deliberated upon in depth by all political parties which may come up with concrete proposals for rooting out this malaise from our political system.
- b. The relevant provision in the Representation of People Act, 1951 may be suitably modified taking into view all the initiatives in this direction.

Anti Defection Law

13. In the era of hung Parliaments/Assemblies, coalition and minority Governments, there are more and more occasions when Presiding Officers are called upon to decide cases under the Anti Defection Law. The Study Group is of the view that under these circumstances, the need for removing various lacunae and suitably amending the Tenth Schedule has become more pronounced. In the decade long operation of the Anti-Defection Law, various lacunae and ambiguities in the law have come to fore. These lacunae have been largely responsible for varied interpretation of various provisions of the law at the hands of Presiding Officers which has led to criticism and a demand for revision of the Anti Defection Law. The most contentious provisions are those relating to splits and mergers. One of the main areas of criticism is the Anti Defections Law is that while individual defections are punished, collective defections are condoned in the name of splits. The very concepts of rursplitication of asplit on ideological differences and right of dissent are presently issues of debate,

Some of the other controversial issues are:—

- (a) time from which a split becomes operative.
- (b) effecting a splits fer facilitating mergers.
- (c) absence of provision of certaione ventualities such as expulsions of members for political parties etc.

The Study Group therefore, recommends that the Anti Defection Law as it stands at present may be discussed threadbare by the Presiding Officers of the Legislative Bodies in India and the Government should take concrete measures for suitably amending the law.

II OBLIGATIONS

14. As an elected representative of the people, a member's status is an exalted one. While privileges are given to members to enable them to perform their parliamentary duties unfettered, these privileges also entail certain obligations. A dignified conduct is one of the primary obligations of a member of Parliament. Any improper conduct in the House, such as slogan shouting, showing the placards, rushing to the well of the House and acts of disrespect to the Chair and other disorderly scenes, tend to present the members in a poor light before the public. Televising of the proceedings of Parliament has virtually taken 'democracy at work' to living rooms of the masses. With such a vast viewership of parliamentary proceedings, it becomes all the more essential that dignity and decorum are maintained in the House.

Discipline and Decorum

15. The issue of maintenance of discipline and decorum has been coming up, now and then, for discussion at the annual conferences of Presiding Officers of Legislative Bodies in India. The Presiding Officers' Conference, held at Gandhinagar in Gujarat in May 1992, suggested the convening of an All India Conference where all those concerned with the business of the House should be invited to deliberate on the issue of discipline and decorum in the legislatures.

16. As a sequel to this, a two-day All India Conference of Presiding Officers, Leaders of Parties, Ministers of Parliamentary Affairs, Whips, Parliamentarians, Legislators and Senior Officers of Parliament and State Legislatures was held in the Central Hall of Parliament on 23 and 24 September, 1992. During the Conference, the delegates dwelt on many related aspects of the functioning of the parliamentary institutions.

17. While there is no definitive Code of Conduct for members of Lok Sabha, there are various provisions in the Rules of Procedure and Conduct of Business in Lok Sabha for ensuring decorous and dignified conduct of members. Over the years, there have come to be established certain norms in respect of Code of Conduct for Legislators.

18. Based on the well established norms and the provisions in the rules, a Code of Conduct was drafted and included in a paper entitled 'Discipline and Decorum in Parliament and State Legislatures' which was brought out by the Lok Sabha Secretariat for reference and use of delegates at this two day special Conference.

19. The Conference was divided on the issue of the Code of Conduct. While some delegates felt that the existing Rules of Procedure did provide for orderly behaviour, others thought that it should be more useful to have such a Code.

20. After detailed deliberations, the Conference adopted unanimously a Resolution *inter alia* reiterating the responsibilities and duties of legislators; and suggesting that the political parties evolve a Code of Conduct for their legislators and ensure its observance by them.

Golden Jubilee Commemorative Session

17. The Golden Jubilee Commemorative Session of Lok Sabha, held from 26 August, 1997 to 1 September, 1997, has unanimously adopted a Resolution which *inter alia* provides:

That the prestige of the Parliament be preserved and enhanced, also by conscious and dignified conformity to the entire regime of Rules of Procedure and Conduct of Business of the Houses and Directions of the Presiding Officers relating to orderly conduct of business, more especially by—

- * maintaining the inviolability of the Question Hour,
- * refraining from transgressing into the official areas of the House, or from any shouting of slogans, and
- * invariably desisting from any efforts at interruptions or interference with the address of the President of the Republic.

22. The Study Group feels that even though the aspects of standards and conduct, as laid down in the Rules of Procedure and Conduct of Business in Lok Sabha and settled norms over the years, have been incorporated in

the draft code of conduct referred to above, a Code of Conduct for members of Lok Sabha has to be agreed upon by the House with a view to giving it a mandatory effect and the proposed Committee on Ethics and Privileges can take cognizance of any violation of the Code and complaints to that effect.

The Study Group, therefore, recommends that:

- (a) A definitive Code of Conduct for members may be finalised keeping in view the various existing provisions in the Rules of Procedure and Conduct of Business in Lok Sabha, well established norms of behaviour and conventions and also the recent Resolution adopted at the Golden Jubilee Commemorative Session of Lok Sabha.
- (b) This Code may be placed before the House for deliberation and adoption.
- (c) The Code of Conduct may also cover suggestions regarding (i) administering the Code; (ii) complaints in respect of breach of the Code; and (iii) sanctions for violation of the Code.

Attendance in Lok Sabha and Committee sittings

23. Members of Parliament, as representatives of the people, have responsibility towards their constituents. People have great expectations of their representatives for raising their concerns on the floor of the Parliament and work for their cause. For realisation of this objective, optimum utilisation of the forum of Parliament is a must.

24. In terms of Article 100(3) of the Constitution, the quorum to constitute a meeting of either House of Parliament is one-tenth of the total number of members of the House.

25. In terms of Rule 259 of the Rules of Procedure and Conduct of Business in Lok Sabha, the quorum for a meeting of the Committee 'shall be, as near as may be, one-third of the total number of members of the Committee'. For participative deliberations during proceedings of Parliament and its Committees, regular attendance of members and strict compliance with the provisions of to quorum are imperative. Of late, there have been complaints of thin attendance in the House and Committee meetings and important legislative business being carried on without a quorum. The Study Group feels that the political parties should consider preparing a roster for their members to attend the House with a view to ensuring strict observance of quorum.

26. In 1993, the Salaries Allowances and Pension of members of Parliament Act, 1954 was amended which *inter alia*, provides that members may claim daily allowance only on their signing the attendance register on a daily basis. This, however, did not have the desired effect in improving the attendance. In fact, there has been a demand that the rule relating to daily signature by a member be done away with. The Study Group feels that claiming daily allowance without attending the House is immoral and unethical and therefore, the existing practice of daily signature should continue.

The Study Group, however, feels that the said statutory provision has to be viewed in the right perspective taking into account the spirit of the law.

What is the essence is that signature is only a mode to record attendance. Taking a logical view, a member who attends the sitting of the House becomes entitled to claim daily allowance. Hence, in certain exceptional cases, where a member inadvertently forgets to sign the attendance register, but nevertheless attends the House, in all fairness his claim for daily allowance should be considered, subject to production of a tangible proof of attendance.

27. It is the considered opinion of the Study Group that such matters could best be sorted out at meeting of Party leaders. It is, therefore, recommended that definitive guidelines in this respect may be agreed upon during party leaders' meetings, convened specially for this purpose. These guidelines may form part of the Code of Conduct.

Financial Disclosures

28. There is no requirement at present for Members of Parliament to declare their assets, either at the time of election or subsequently.

29. There are certain stipulations in the Rules of Procedure and Conduct of Business in Lok Sabha with respect to Members' personal, pecuniary or direct interest in matters before the House and its Committees.

Gifts & Hospitality

30. The acceptance of gifts and hospitality have ethics implications. In USA, the US Congress Rules and other related statutes have laid down certain stipulations regarding gift acceptance and hospitality norms which have to be observed by Senators/Members. In UK too as per the Guide relating to conduct of Members, 'Gifts, benefits and hospitality; Overseas benefits and gifts' are among the stipulated categories of registrable interests of Members. In India, there are certain well settled codes of conduct, relating to gifts, benefits and hospitality, which the Members are required to observe during study tours of Parliamentary Committees [See page 282, items (vi) & (vii) of the Appendix IX]. As regards foreign hospitality, detailed provisions are laid down in sections 4, 5 & 9 of the Foreign (Contribution) Regulation Act, 1976. Section 4 of the Act prohibits acceptance of foreign contribution by the candidates for elections. Section 5 stipulates that organisation of a political nature should not accept foreign contribution except with the prior permission of the Central Government. Besides, section 9 lays down restrictions on acceptance of foreign hospitality by a member of Legislature, office bearer of a political party etc.

Declaration of Interests

31. Voicing the constituents' concerns on the floor of the House is the primary parliamentary duty of an elected representative. Any attempt to influence Members by improper means in their parliamentary conduct is a breach of privilege. Thus, offering to a Member a bribe or payment to influence him in his conduct as a Member, or any fee or reward in connection with the promotion of or opposition to, any Bill, resolution, matter or things submitted or intended to be submitted to the House or any Committee thereof, should be treated as a breach of Code of Conduct. Further, any offer of money, where for payment to an association to which a Member belongs or to a charity, conditional on the

Member taking up a case or bringing it to a successful conclusion, is objectionable. Offer of money or other advantage to a Member in order to induce him to take up an issue with a Minister may also constitute a breach of Code. Similarly, acceptance of inducements and gratification by Members for putting questions in the House or for promotion of or opposition to any Bill, resolution or matters submitted to the House or any Committee thereof involves the privilege and contempt proceedings.

The privilege implications apart, the Study Group is constrained to observe that such attempts and acts are basically unethical in nature.

32. Views have been aired with regard to transparency in respect of Members' assets, private holdings, interests and acceptance of gifts and hospitality by Members, which could go a long way in enhancement of Members' dignity and dispelling false public perceptions. Hence, financial disclosures by Members becomes imperative. For achieving this objective it is recommended that:

(i) It may be made mandatory for each Member of Lok Sabha to disclose his/her income, assets and liabilities. For this purpose Member may be required to file a financial disclosure statement immediately after their election to Lok Sabha.

(ii) Members may file revised forms whenever any change occurs and also at the end of each financial year.

(iii) A Register of Members' Interests may be maintained in the Lok Sabha Secretariat and also with office of the Committee on Ethics and Privileges on the Basis of information furnished by the Members.

(iv) Guidelines in respect of gifts, benefits and hospitality enjoyed by Members may be formulated.

(v) Rules may be framed specifically laying down the acts, commission or omission of which would constitute an unethical conduct

(vi) For giving effect to these proposals definite guidelines may be framed by the sub-Committee on Ethics, in consultation with the Rules Committee.

(vii) These guidelines may be incorporated in the Rules of Procedure and Conduct of Business in Lok Sabha, by way of an Appendix. This measure would give a mandatory effect to these guidelines without any recourse for a legislative enactment for this purpose.

Constituency responsibilities

33. Members of Parliament, as elected representatives, have responsibility towards their constituents. The Members, therefore, have an obligation to fulfil the electorate's mandate. Apart from their parliamentary duties, members have to honour their commitment to meet the needs of their constituents.

34. It is, therefore, expected of members of Parliament to be easily accessible to their constituents for looking into their grievances and

attending to their problems. In order that the members are able to effectively work for the welfare of their constituents, it becomes imperative that there should be better and more frequent Member-constituent interaction.

The Study Group, therefore, recommends that (a) a mechanism be evolved to ensure regular Member-constituent interaction; (b) for this purpose a Voter's Council, with functions like Sarpanches, Block/Mandal Panchayat Presidents and Members of Zilla Parishad etc., be constituted at the constituency level at the constituency level through a statutory enactment; (c) related matters may be sorted out at party leaders' meetings.

Lobbying

35. In the present day democracies there is an emerging trend of lobbying by pressure groups for various causes through legislators. (It is, in fact, a well established practice in USA & UK). Any endeavour by a group, association or body of citizens, for furtherance of various causes, through their legislators is quite justified. It, in fact, highlights the success of a mature democracy. What is objectionable however, is the unethical aspect of lobbying viz. initiation of legislative measures etc. in House by legislators for furthering the objectives of certain organisations for personal gains or lobbyists' influencing legislators for vested interests. Such practices are patently unethical in nature and import. The restrictions in respect of pecuniary matters apart, the Study Group holds the view that legislators are under an obligation to refrain from such influences. The Study Group, therefore, recommends that certain regulations in this respect may be laid down at the time of formulation of guidelines for declaration of interests.

III. PRIVILEGES AND FACILITIES

A. PRIVILEGES

36. Privileges and immunities are granted to Members of Parliament for proper exercise of their parliamentary functions. As elected representatives of people, Members of Parliament have certain responsibilities and functions also. Members can do justice to these functions only if they are able to perform these duties unfettered. The Study Group is, therefore of the view that there is a need for provision of adequate facilities to Members.

MPLADS & Other Welfare Schemes

37. Keeping in view the significance of Members' involvement in welfare activities of their constituencies, the Study Group recommends that:

- (a) revised guidelines regarding MPLADS be framed and scrupulously implemented;
- (b) orientation programmes as provided in guideline no. 5.7 of the MPLAD Scheme (December, 1996) may be organised periodically
- (c) a monitoring system may be evolved for effective implementation of Members' Schemes under the MPLADS;

(d) a mechanism may be devised for facilitating active role for members in various centrally sponsored welfare schemes like Indira Awas Yojna, Prime Minister's Rozgar Yojna, Jawahar Rozgar Yojna and Employment Assurance Scheme, particularly in respect of selecting the beneficiaries and work and periodic review of these schemes. Mechanism should also be evolved for active role of members in various slum improvement programmes. The Study Group desires immediate implementation of the recommendation of the Standing Committee on Urban and Rural Development that 50% of the beneficiaries under Indira Awas Yojna should be selected on the basis of the list given by the Members of Parliament.

Warrant of Precedence

38. The Study Group has taken note of incidents of misbehaviour and discourtesy with Members as also protocol violations, on the part of the executive functionaries. In the light of the observations in Chapter VI of the Report, the Study Group is of the view that the existing positioning of Members of Parliament in the Warrant of Precedence has to be upgraded to accord the Members a better status. As per the present Warrant of Precedence, while the Members of Parliament are positioned at serial No. 21, Cabinet Ministers in States, within their respective States, are positioned, among others, at serial No. 15. The Cabinet Ministers in the State Governments, who are chosen from amongst Members of the Legislatures represent only one of the many assembly segments which go to form a parliamentary constituency. In order to correct this anomaly the Study Group recommends that Members of Parliament may also be positioned at serial No. 15 in the order of precedence to accord the status due to them.

Official dealings between the Members & the Administration—Guidelines thereof

39. In order to meet their representative responsibilities, the Members are required to have access to and information from Government officials. The Central Government has issued guidelines regarding Official dealings between Members and the Administration which are not only inadequate but are observed more often in their breach. There is at present no provision for any punishment for the breach of these guidelines.

The Study Group, therefore, recommends that—

- (a) the Central Government guidelines be immediately revised with a provision for appropriate action against officials for their deliberate breach or violation.
- (b) Members' letters to the executive functionaries be invariably acknowledged and duly signed replies by the addresses be sent in time.
- (c) cases of breaches/violations of the aforementioned guidelines and also sending untrue replies to Members be taken by the Committee on Ethics and Privileges for examination, investigation and report.

Protocol Norms

40. The Study Group is constrained to observe that there have been numerous incidents of complaints from Members regarding protocol violations during functions organised by the Central/State Governments/District Administrations and local bodies. For example during the Zilla Parishad meetings, the District Collector/Magistrate and some other local officials (who do not find any mention in the Warrant of Precedence) take position on the dais while the Members of Parliament are seated among the audience. This is almost an affront to the Members. The Study Group, therefore, recommends that:—

(a) the Union Government guidelines/instructions regarding official dealings with Members may also specifically stipulate that during such functions and meetings the Members of Parliament are invariably seated on the dais, and get precedence over the Government Servants.

(b) Any violation of protocol norms may be taken up by the committee for examination and report:

B. FACILITIES

41. To enable the Members of Parliament perform their parliamentary and representative functions effectively, they are provided with some facilities. Besides the stipulated salary, Members are entitled to some constituency and office expense allowances during the term of their office. They are also entitled to (a) daily allowances for attending the sittings of the House and Committees; (b) travelling allowance for attending a session of the House or a meeting of a Committee and certain other facilities. For example, travel facilities to Member's spouse and attendant/companion; (b) conveyance advance; (c) accommodation, water & electricity at concessional rates; (d) medical and telephone services. Besides, Members are provided with stenographic assistance in both English and Hindi in Parliament House, so that they can dispose of their urgent parliamentary work promptly. Furthermore, the Parliament Library and Reference, Research Documentation and Information Service (LARRDIS) provides various other facilities to members viz. use of Parliament Library; Reprography Service; Member's Reference Service; Documentation & Press Clipping Services; Research & Reference Services, computerised information services etc. As an extension of these services, Members have been provided with laptop/desktop computers.

42. In this age of information explosion and hitech informatic mechanisms, an era of instant/speedy communications has set in. In this scenario, the present facilities to members are not adequate. Given the advantage of latest technological developments and know-how, Members could perform their representative duties more effectively and also be frequently in touch with their constituents. The facilities provided to the Members of Parliament in India, compare too unfavourably with those provided to their counterparts in some other Parliaments viz. US Congress

and Parliaments of UK, Australia, Canada etc. Though some revision in the Members' salary and allowances has been made recently, these are still inadequate.

43. The Study Group, therefore, recommends that the following proposals be considered for implementation:—

- (i) Periodical review of the existing salary, allowances and facilities and provision of latest communication/computer services to Members;
- (ii) Provision of office accommodation to Members both in Delhi and in the constituency headquarters, with personal staff, stationery, Fax, photocopying franking machine and other equipment;
- (iii) Restoration of quotas of gas connections and telephones which was discontinued some time ago. As the Rajya Sabha continues to give these facilities to its Members;
- (iv) Provision of transport facilities for Members in their official tours in their constituencies, as is being done in States like in Karnataka, Maharashtra and Madhya Pradesh.

ANNEXURE 1

VISIT OF INDIAN PARLIAMENTARIANS TEAM TO AUSTRALIA [15—20 JUNE, 1997] PROGRAMME

Sunday, 15 June, 1997

Visited Vishnu Shiva Mandir, Canberra, recently inaugurated by Mr. John Howard, Prime Minister of Australia.

Monday, 16 June, 1997

Meeting with Mr. Harry Evans, Clerk of the Senate.

Meeting with Senator Charles, Former Chairman, Privileges Committee of Senate and Ms Anne Lynch, Secretary to the Privileges Committee of Senate.

Meeting with Mr. Cleaver Elliott, Senior Official dealing with Senate Committees.

Observed Question Time in the Senate.

Observed Question Time in the House of Representatives.

Meeting with Senator Bill Haffernan, Deputy Government Whip in the Senate.

Joint Call on the President of the Senate Mrs. Margaret Reid and Speaker of the House of Representatives Mr. Robert Halverson in President's Suite.

Tuesday, 17 June, 1997

Meeting with Mr. Lyne Barlin, Clerk of the House of Representatives.

Meeting with Mr. Bernard Wright, Secretary to the Privileges Committee of the House of Representatives.

Meeting with Mr. Peter Gibson, Senior Official dealing with Committees of the House of Representatives.

Meeting with the Hon. Leo Mcleay, Chief Opposition Whip, House of Representatives (former Speaker, House of Representatives).

Wednesday, 18 June, 1997

Briefing by Mr. Guy Aitken from Attorney General's Office (Ministry of Justice) on Ethics in Public Life.

Called on the Acting Prime Minister, Mr. Tim Fischer.

Thursday, 19 June, 1997

Morning tea with Hon. John Henry Murray, Speaker, Legislative Assembly of New South Wales at Parliament House.

Briefing by Chairman, Ethics Committee, Legislative Assembly of New South Wales in Parliament House.

Tour of Parliament House Building.

ANNEXURE II

VISIT OF INDIAN PARLIAMENTARIANS TEAM TO U.K. & U.S.A. [5—13 July, 1997] PROGRAMME

Monday, 7 July, 1997

Meeting with Sir Gordon Downey, Parliamentary Commissioner for Standards in Public Life at 7 Millbank, London.

Meeting with Lord Nolan, Government Offices, Horse Guards Road.

Visit Houses of Parliament.

Call on Lord Chancellor, House of Lords.

Meeting with Lord Griffiths Chairman of the Privileges Committee, House of Lords.

Meeting with Rt. Hon. Tony Newton, Former Chairman, Select Committee on Standards and Privileges, Taj Room, St. James Court Hotel.

Tuesday, 8 July, 1997

Meeting with Rt. Hon. Robert Sheldon, Chairman of the Select Committee on Standards and Privileges, House of Commons.

Meeting with Dr. L.M. Singhvi, High Commissioner.

Luncheon Meeting with UK, MPs in CPA, UK Branch Room, House of Commons.

Wednesday, 9 July, 1997

Briefing by Shri Naresh Chandra, Ambassador in Hotel Watergate.

Meeting with Senator Harry Reid (D-NV), Ranking member of Senate Select Committee on Ethics, Hart Building.

Tour of Capitol Hill.

Meeting with Congressman Howard Berman (D-CA).

Meeting with Congressman James Hansen (R-UT), Chairman, House Select Committee on Ethics.

Meeting with Senator Jeff Sessions (R-AL), Member of Senate Select Committee on Ethics, Russel Building.

Thursday, 10 July, 1997

Visit to Philadelphia Museum of Art. Guided tour of photographic exhibition commemorating 50th anniversary of India's Independence.

Friday, 11 July, 1997

Meeting with Mr. Pallone, Co-Chairman, India Caucus and other India Caucus members, Cannon Building.

Meeting with Congressman Gary Ackerman.

Visit Air & Space Museum.

Tour of Smithsonian Sackler Gallery.

Tour of Padshahnama Exhibition.

Visit Washington Memorial.

Press Conference at Embassy.

APPENDIX I

[See para 1.21 of the Report]

FINANCIAL DISCLOSURE STATEMENT

Form A — For Use by Members, Officers and Employees, United States House of Representatives.

[To be filed under the provisions of the Ethics in Government Act]

UNITED STATES HOUSE OF REPRESENTATIVES
FINANCIAL DISCLOSURE STATEMENT FOR CALENDAR YEAR

FORM A
 for use by Members, officers and employees

(Full Name) _____
 (Mailing Address) _____
 Day time Telephone _____

Filer Status Member of the U.S. House of Representatives State: District: _____
 Report Type Annual (May 15) Amendment Termination Officer or Employee
 Employing Office: _____
 Termination Date: _____

(Office Use Only)

A \$200 penalty shall be assessed against anyone who files more than 30 days late.

PRELIMINARY INFORMATION—ANSWER EACH OF THESE QUESTIONS

I. Did you or your spouse have "earned" income (e.g. salaries or fees) of \$200 or more from any source in the reporting period? If yes, complete and attach Schedule I. Yes No

II. Did any individual or organization make a donation to charity in lieu of paying your for a speech, appearance, or article in the reporting period? If yes, complete and attach Schedule II. Yes No

III. Did you, your spouse, or a dependent child receive "unearned" income of more than \$200 in the reporting period or hold any reportable asset worth more than \$1,000 at the end of the period? If yes, complete and attach Schedule III. Yes No

IV. Did you, your spouse, or dependent child purchase, sell or exchange any reportable asset worth more than \$1,000 in the reporting period? If yes, complete and attach Schedule IV. Yes No

V. Did you, your spouse, or a dependent child have any reportable liability (more than \$10,000) during the reporting period? If yes, complete and attach Schedule V. Yes No

VI. Did you, your spouse, or a dependent child receive any reportable gift in the reporting period (i.e. aggregating more than \$250 and not otherwise exempt)? If yes, complete and attach Schedule VI. Yes No

VII. Did you, your spouse, or a dependent child receive any reportable travel or reimbursements for travel in the reporting period (worth more than \$250 from one source)? If yes, complete and attach Schedule VII. Yes No

VIII. Did you hold any reportable positions on or before the date of filing in the current calendar year? If yes, complete and attach Schedule VIII. Yes No

IX. Did you have any reportable agreement or arrangement with an outside entity? If yes, complete and attach Schedule IX. Yes No

Each question in this part must be answered and the appropriate schedule attach for each "Yes" response.

EXCLUSION OF SPOUSE, DEPENDENT, OR TRUST INFORMATION—ANSWER EACH OF THESE QUESTIONS

TRUSTS—Details regarding "Qualified Blind Trusts" approved by the Committee on Standards of Official Conduct and certain other "excepted trust" need not be disclosed. Have you excluded from this report details of such a trust benefiting you, your spouse, or dependent child? (See instructions, pages 10-11). Yes No

EXEMPTION—Have you excluded from this report any other assets, "unearned" income, transactions, or liabilities of a spouse or dependent child because they meet all three test for exemption? (See instructions, page 11). Yes No

CERTIFICATION—THIS DOCUMENT MUST BE SIGNED BY THE REPORTING INDIVIDUAL AND DATED

This Financial Disclosure Statement is required by the Ethics in Government Act of 1978, as amended. The Statement will be available to any requesting persons upon written application and will be reviewed by the Committee on Standards of Official Conduct or its designee. Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file this report may be subject to civil and criminal sanctions (See 5 U.S.C. app 6, §104 and 18 U.S.C. §1001).

SIGNATURE OF REPORTING INDIVIDUAL _____ DATE (Month/Day/Year) _____

Name _____	Page _____ of _____
------------	---------------------

SCHEDULE I — EARNED INCOME

List the source, type and amount of earned income from any source (other than the filer's current employment by the U.S. Government) totalling \$200 or more during the preceding calendar year. For a spouse, list the source and amount of any honoraria; list only the source for other spouse earned income exceeding \$1,000. For further information, see Instructions, pages 12-13.

Source	Type	Amount
<i>Examples:</i> Jefferson University State of Maryland Civil War Round Table (Oct. 2nd) Fairfax County Board of Education	Approved Teaching Fee Legislative Pension Spouse Speech Spouse Salary	\$6,000 \$9,000 \$1,000 NA

For payments to charity in lieu of honoraria, use Schedule II.

Name _____	Page _____ of _____
------------	---------------------

SCHEDULE II — PAYMENTS IN LIEU OF HONORARIA MADE TO CHARITY

List the source, activity (i.e. speech, appearance, or article, date, and amount of any payment made by the sponsor of an event to a charitable organization in lieu of an honorarium. A separate confidential list of charities receiving such payments must be filled directly with the Committee on Standards of Official Conduct. An envelope for transmitting the list is included in each Member's filing package. For further information, see Instructions, pages 13-14.

Source	Activity	Date	Amount
Examples: Association of American Associations, Wash. D.C. XYZ Magazine	Speech Article	Feb. 2, 1994 Aug. 13, 1994	\$2,000 \$500

SCHEDULE III — ASSETS AND “UNEARNED” INCOME

Page of

Name _____

BLOCK A Asset and/or Income Source		BLOCK B Value of Asset										BLOCK C Type of Income							BLOCK D Amount of Income										BLOCK E Transaction															
Identify (a) each asset held for investment or production of income with a fair market value exceeding \$1,000 at the end of the reporting year, and (b) any other asset or source of income which generated more than \$200 in “unearned” income during the year. For rental property or land, provide an address. Provide full names of any mutual funds. For an IRA or retirement plan that is self-directed, list the underlying assets worth more than \$1,000. For an IRA or retirement plan that is not self-directed, name the institution holding the account. Exclude: Your personal residence(s) (unless there is rental income); any debt owed to you by your spouse, or by your or your spouse's child, parent, or sibling; any deposits totalling \$5,000 or less in personal savings accounts; any financial interests in or income derived from U.S. Government retirement programs. If you so choose, you may indicate that an asset or income source is that of your spouse (SP) or dependent child (DC) or is jointly held (JT), in the optional column on the far left. For further information, see instructions, pages 14–20.		None		A	B	C	D	E	F	G	H								I	II	III	IV	V	VI	VII	VIII	IX																	
		\$1-\$1,000		\$1,100.01-\$15,000	\$15,001-\$50,000	\$50,001-\$100,000	\$100,001-\$250,000	\$250,001-\$500,000	\$500,001-\$1,000,000	\$1,000,001-\$1,000,000	Over \$1,000,000															None	\$1-\$200	\$201-\$1,000	\$1,001-\$2,500	\$2,501-\$5,000	\$5,001-\$15,000	\$15,001-\$50,000	\$50,001-\$100,000	\$100,001-\$1,000,000	Over \$1,000,000									
SP Mega Corp. Stock DC, Example: 123 Main St., Dover, Del. JT 1st Bank of Peoria, IL accounts				X				X																X																				
							X																																					

For additional assets and unearned income, use next page.

SCHEDULE III — ASSETS AND “UNEARNED” INCOME

Continuation Sheet (If needed)

Name

Page of

BLOCK A Asset and/or Income Source	BLOCK B Year-End Value of Asset		BLOCK C Type of Income							BLOCK D Amount of Income							BLOCK E Transaction										
	A	B	C	D	E	F	G	H	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Blind	Trust	I		II	III	IV	V	VI	VII	VIII			
	None	\$1-\$15,000	\$15,001-\$50,000	\$50,001-\$100,000	\$100,001-\$250,000	\$250,001-\$500,000	\$500,001-\$1,000,000	Over \$1,000,000	None	\$1-\$200	\$201-\$1,000	\$1,001-\$2,500	\$2,501-\$5,000	\$5,001-\$15,000	\$15,001-\$50,000	\$50,001-\$100,000		\$100,001-\$1,000,000	Over \$1,000,000								
SP.																											
DC.																											
JT																											

This page may be copied if more space is required.

SCHEDULE IV — TRANSACTIONS

Page of

Name

Report any purchase, sale, or exchange by you, your spouse, or dependent child during the reporting year of any real property, stocks, bonds, commodities futures, or other securities when the amount of the transaction exceeded \$1,000. Include transactions that resulted in a loss. Do not report a transaction between you, your spouse, or your dependent child, or the purchase or sale of your personal residence, unless it is rented out. For further information, see instructions, pages 20-21.	Type of transaction	Date	Amount of Transaction															
			B	C	D	E	F	G	H									
			\$15,001-\$50,000	\$15,001-\$50,000	\$50,001-\$100,000	\$100,001-\$250,000	\$250,001-\$500,000	\$500,001-\$1,000,000	\$1,000,001-\$5,000,000	\$5,000,001-\$10,000,000	Over							
SP, DC, JT																		
SP Example: Mega Corporation Common Stock	PURCHASE	10-12-94	x															

This Page may be copied if more space is required.

SCHEDULE V — LIABILITIES

Name..... Page..... of.....

Report liabilities of over \$10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent child. Mark the highest amount owed during the year. Exclude : Any mortgage on your personal residence (unless it is rented out); loans secured by automobiles, household furniture, or appliances; and liabilities owed to a spouse, or the child, parent, or sibling of you or your spouse. Report revolving charge accounts only if the balance at the end of the reporting period exceeded \$10,000. For further information, see Instructions, pages 21-22.

SP, DC, JT	Creditor	Type of Liability	Amount of Liability												
			B	C	D	E	F	G	H	Over					
	Example : First Bank of Wilmington, Delaware	Mortgage on 123 Main St., Dover, Del.	\$10,001-	\$15,000-	\$50,000-	\$100,001-	\$50,000	\$250,000	\$250,001-	\$500,001-	\$500,000	\$1,000,001-	\$1,000,000	\$1,000,000	

SCHEDULE VI — GIFTS

Report the source, a brief description and the value of all gifts totaling more than \$250 received by you, your spouse, or a dependent child from any source during the year. Exclude: Gifts from relatives, gifts of personal hospitality of an individual, local meals and gifts to a spouse or dependent child that are totally independent of his or her relationship to you. Gifts with a value of \$100 or less need not be added towards the \$250 disclosure threshold. Note: House Rule 43, clause 4, prohibits most gifts exceeding \$250. For further information, see Instructions, pages 22-23.

Source	Description	Value
Example: Mr. Joseph H. Smith, Anytown, Anystate	Silver Platter (waiver received from Committee on Standards)	\$270

Use additional sheets if more space is required.

SCHEDULE VII — FACT-FINDING, SUBSTANTIAL PARTICIPATION, AND OTHER TRAVEL

Identify the source and list travel itinerary, dates, and nature of expenses provided for travel and travel-related expenses totaling more than \$250 received by you, your spouse, or a dependent child during the reporting period. Indicate whether a family member accompanied the traveller at the sponsor's expense, and the amount of time, if any, that was not at the sponsor's expense. Disclosure is required regardless of whether the expenses were reimbursed or paid directly by the sponsor.

Exclude : Travel-related expenses provided by federal, state, and local governments, or by a foreign government required to be separately reported under the Foreign Gifts and Decorations Act (5 U.S.C. § 7342); travel paid for by campaign funds; travel provided to a spouse or dependent child that is totally independent of his or her relationship to you. For further information, see Instructions, pages 24-25.

Source	Date(s)	Point of Departure—Destination— Point of Return	Lodging? (Y/N)	Food? (Y/N)	Was a Family Member Included? (Y/N)	Any time [20] at sponsor's expense
Chicago Chamber of Commerce Examples: Mega Corporation	Mar. 2 Aug. 6—13	Wash., D.C.—Chicago — Wash., D.C. Wash., D.C.—Los Angeles — Cleveland	N Y	N Y	N Y	N 4 Days

SCHEDULE VIII — POSITIONS

Report all positions, compensated or uncompensated, held during the current calendar year as an officer, director, trustee of an organization, partner, proprietor, representative, employee, or consultant of any corporation, firm, partnership, or other business enterprise, any nonprofit organization, any labor organization, or any educational or other institution other than the United States. For further information, see Instructions, pages 25-26.

Exclude : Positions held in any religious, social, fraternal, or political entities; positions solely of an honorary nature; and positions listed on Schedule I.

Position	Name of Organization

SCHEDULE IX — AGREEMENTS

Identify the date, parties to, and general terms of any agreement or arrangement with respect to; future employment; a leave of absence during the period of government service; continuation or deferral of payments by a former or current employer other than the U.S. Government; or continuing participation in an employee welfare or benefit plan maintained by a former employer. For further information, see Instructions, page 26.

Date	Parties To	Terms of Agreement

APPENDIX II

[See para 1.21 of the Report]

FINANCIAL DISCLOSURE STATEMENT

**Form B — For use By Candidates and New
Employees, United States House
of Representatives.**

[To be filed under the provisions of the Ethics in Government Act]

UNITED STATES HOUSE OF REPRESENTATIVES
FINANCIAL DISCLOSURE STATEMENT
 Period covered: January 1, 199

FORM B
For use by candidates and new employees

(Full Name) _____

(Mailing Address) _____

Daytime Telephone: _____

(Office Use only)

Filer Status

Candidate for the House of Representatives

New officer or employee

State: _____ Date of Election: _____

District: _____

Employing Office: _____

Check if Amendment

A \$200 penalty shall be assessed against anyone who files more than 30 days late.

In all sections, please type or print clearly in black ink.

PRELIMINARY INFORMATION—ANSWER EACH OF THESE QUESTIONS

I. Did you or your spouse have "earned" income (e.g. salaries or fees) of \$200 or more from any source in the reporting period? If yes, complete and attach Schedule I. Yes No

IV. Did you hold any reportable positions on or before the date of filing in the current calendar year or in the prior two years? If yes, complete and attach Schedule IV. Yes No

II. Did you, your spouse, or a dependent child receive "unearned" income of more than \$200 in the reporting period or hold any reportable asset worth more than \$1,000 at the end of the period? If yes, complete and attach Schedule II. Yes No

V. Did you have any reportable agreement or arrangement with an outside entity? If yes, complete and attach Schedule V. Yes No

III. Did you, your spouse, or a dependent child have any reportable liability (more than \$10,000) during the reporting period? If yes, complete and attach Schedule III. Yes No

VI. Did you receive compensation of more than \$5,000 from a single source in the two prior years? If yes, complete and attach Schedule VI. Yes No

Each question in this part must be answered and the appropriate schedule attach for each "Yes" response.

EXCLUSION OF SPOUSE, DEPENDENT, OR TRUST INFORMATION—ANSWER EACH OF THESE QUESTIONS

TRUSTS—Details regarding "Qualified Blind Trusts" approved by the Committee on Standards of Official Conduct and certain other "excepted trusts" need not be disclosed. Have you excluded from this report details of such a trust benefiting you, your spouse, or dependent child? (See instructions, pages 10-11.) Yes No

EXEMPTION—Have you excluded from this report any other assets, "unearned" income, transactions, or liabilities of a spouse or dependent child because they meet all three test for exemption? (See instructions, page 11.) Yes No

CERTIFICATION—THIS DOCUMENT MUST BE SIGNED BY THE REPORTING INDIVIDUAL AND DATED

This Financial Disclosure Statement is required by the Ethics in Government Act of 1978, as amended. The Statement will be available to any requesting persons upon written application and will be reviewed by the Committee on Standards of Official Conduct or its designee. Any individual who knowingly and willfully falsifies, or who knowingly and willfully fails to file this report may be subject to civil and criminal sanctions (See 5 U.S.C. app. 6, §104 and 18 U.S.C. §1001).

SIGNATURE OF REPORTING INDIVIDUAL _____

DATE (Month/Day/Year) _____

SCHEDULE I -- EARNED INCOME (INCLUDING HONORARIA)

List the source, type, and amount of earned income, including honoraria, from any source (other than your current employment by the U.S. Government) totalling \$200 or more during the current year to the filing date and, separately, the preceding calendar year. For a spouse, list the source and amount of any honoraria; list only the source for other spouse earned income exceeding \$1,000. For further information, see Instructions, pages 12-13.

Source (include date of receipt for honoraria)	Type	Amount	
		Current Year to Filing	Preceding Year
XYZ Corporation, Houston, Texas	Salary	\$6,300	\$28,450
First Bank & Trust, Houston, Texas	Director's Fee	\$400	\$3,200
XYZ Trade Association, Chicago, IL (Rec'd. 12-2-94)	Honorarium	0	\$1,000
Harris Country, Texas, Public Schools	Spouse Salary	NA	NA

This page may be copied if more space is required.

SCHEDULE II — ASSETS AND "UNEARNED" INCOME

Name _____ Page _____ of _____

BLOCK A			BLOCK B										BLOCK C										BLOCK D																					
Asset and/or Income Source			Value of Asset										Type of Income										Amount of Income																					
Identify (a) each asset held for investment or production of income with a fair market value exceeding \$1,000 at the end of the reporting period, and (b) any other asset or source of income which generated more than \$200 in "unearned" income during the period. For rental property or land, provide an address. Provide full names of any mutual funds. For an IRA or retirement plan that is self-directed, list the underlying assets worth more than \$1,000. For an IRA or retirement plan that is not self-directed, name the institution holding the account. Exclude: Your personal residence(s) (unless there is rental income); any debt owed to you by your spouse, or by your or your spouse's child, parent, or sibling; any deposits totaling \$5,000 or less in personal savings accounts; any financial interests in or income derived from U.S. Government retirement programs. If you so choose, you may indicate that an asset or income source is that of your spouse (SP) or dependent child (DC) or is jointly held (JT), in the optional column on the far left. For further information, see instructions, pages 14-20.			at close of reporting year. If you use a valuation method other than fair market value, please specify the method used. If an asset was sold and is included only because it generated income, the value should be "None."										If other than one of the listed categories, specify the type of income by writing a brief description in this block.										For IRA's and retirement plans that are not self-directed, you may write in "NA" for income.																					
			SP		DC, Example:		JT		A	B	C	D	E	F	G	H	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Blind Trust	None	I	II	III	IV	V	VI	VII	VIII	IX	None	I	II	III	IV	V	VI	VII	VIII	IX		
SP	DC, Example:	JT	\$1-\$1,000	\$1,001-\$15,000	\$15,001-\$50,000	\$50,001-\$100,000	\$100,001-\$250,000	\$250,001-\$500,000	\$500,001-\$1,000,000	\$1,000,001-\$500,000	\$500,001-\$1,000,000	Over \$1,000,000	None	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Blind Trust	None	\$1-\$200	\$201-\$1,000	\$1,001-\$2,500	\$2,501-\$5,000	\$5,001-\$15,000	\$15,001-\$50,000	\$50,001-\$100,000	\$100,001-\$150,000	\$15,001-\$50,000	\$50,001-\$100,000	\$100,001-\$150,000	\$150,001-\$500,000	\$500,001-\$1,000,000	Over \$1,000,000										
				X																		X																						
							X																	X																				
									X																X																			
											X															X																		
													X														X																	
															X													X																
																X													X															
																		X												X														

For additional assets and unearned income, use next page.

SCHEDULE II — ASSETS AND "UNEARNED" INCOME
Continuation Sheet (if needed)

Name Page of

BLOCK A Asset and/or Income Source	BLOCK B Value of Asset									BLOCK C Type of Income					BLOCK D Amount of Income																				
	A	B	C	D	E	F	G	H	Dividends	Rent	Interest	Capital Gains	Excepted Trust	Qualified Blind Trust	Current Year				Preceding Year																
	\$1-\$1,000	\$1,001-\$15,000	\$15,001-\$50,000	\$50,001-\$100,000	\$100,001-\$250,000	\$250,001-\$500,000	\$500,001-\$1,000,000	Over \$1,000,000	None	\$1-\$1,000	\$1,001-\$2,500	\$2,501-\$5,000	\$5,001-\$15,000	\$15,001-\$50,000	\$50,001-\$100,000	\$100,001-\$1,000,000	Over \$1,000,000	I	II	III	IV	V	VI	VII	VIII	IX	I	II	III	IV	V	VI	VII	VIII	IX
SP, JT, DC																																			

SCHEDULE III — LIABILITIES

Name..... Page..... of.....

Report liabilities of over \$ 10,000 owed to any one creditor at any time during the reporting period by you, your spouse, or dependent child. Mark the highest amount owed during the reporting period. Exclude: Any mortgage on your personal residence (unless there is rental income); loans secured by automobiles, household furniture, or appliances; and liabilities owed to a spouse, or the child, parent, or sibling of you or your spouse. Report revolving charge accounts only if the balance at the end of the reporting period exceeded \$10,000. For further information, see instructions, pages 21-22.

SP, DC, JT	Creditor	Type of Liability	Amount of Liability							
			B \$15,000-	C \$15,001- \$50,000	D \$50,001- \$100,000	E \$100,001- \$250,000	F \$250,001- \$500,000	G \$500,001- \$1,000,000	H OVER \$1,000,000	
	Example: First Bank of Wilmington, Delaware	Mortgage on 123 Main St., Dover Del.				x				

SCHEDULE IV — POSITIONS

Report all positions, compensated or uncompensated, held on or before the date of filing during the current calendar year and in the two prior years as an officer, director, trustee of an organization, partner, proprietor, representative, employee or consultant of any corporation, firm, partnership or other business enterprise, any nonprofit organization, any labor organization or any educational or other institution other than the United States. For further information, see instructions, pages 25-26. Exclude: Positions held in any religious, social, fraternal or political entities; positions solely of an honorary nature; and positions listed on Schedule I.

Position	Name of Organization

Use additional sheets if more space is required.

SCHEDULE V — AGREEMENTS

Identify the date, parties to, and general terms of any agreement or arrangement with respect to: future employment; a leave of absence during the period of government service; continuation or deferral of payments by a former or current employer other than the U.S. Government; or continuing participation in an employee welfare or benefit plan maintained by a former employer. For further information, see instructions, page 26.

Date	Parties To	Terms of Agreement

Name	Page of
------------	---------------------

SCHEDULE VI — COMPENSATION IN EXCESS OF \$5,000 PAID BY ONE SOURCE

Report sources of such compensation received by you or your business affiliation for services provided directly by you during the two prior years. This includes the names of clients and customers of any corporation, firm, partnership, or other business enterprise, or any nonprofit organization if you directly provided the services generating a fee or payment of more than \$5,000. Exclude: Payments by the U.S. Government and any information considered confidential as a result of a privileged relationship recognized by law. For further information, see instructions, page 26.

Source (Name and Address)	Brief Description of Duties
<i>Example:</i> Doe Jones & Smith, Hometown, Homestate	Accounting services

APPENDIX III

[See para 1.22 of the Report]

**AN OVERVIEW OF THE
SENATE CODE OF CONDUCT
AND RELATED LAWS**

April 1997

**SELECT COMMITTEE ON ETHICS
UNITED STATES SENATE**

CONTENTS

	PAGE
Financial Disclosure	97
Gifts	97
Travel Reimbursements	98
Honoraria Ban	98
Restrictions on Outside Employment	99
Conflicting Interests	99
Post Employment Restrictions	100
Campaign Activities	100
Funds for Senate Business	101
Frank / Mass Mailing	101
Employment Practices	102
Interventions with Other Government Agencies	102

FINANCIAL DISCLOSURE
MEMBERS, OFFICERS, POLITICAL FUND DESIGNEES,
AND
EMPLOYEES PAID AT THE RATE OF 120%
OF GS—15 (\$83,160 FOR CY 1996)

Annual Public Financial Disclosure Reports covering the previous calendar year, are due by May 15th of each year.

New Employee Reports are due within 30 days of assuming a filing position.

Termination Reports are due within 30 days of leaving a filing position (including political fund designation).

Includes: payments in lieu of honoraria, assets and income (earned and unearned), transactions, liabilities, gifts, travel reimbursements, outside positions, and agreements.

Information regarding spouse and dependent children generally must be disclosed.

\$ 200 late filing fee: civil or criminal penalties for knowing and willful failure to disclose.

Senate Rule 34 and title I of Ethics in Government Act

GIFTS

\$ 49.99 maximum per gift, \$ 99.99 maximum per year from each source (count gifts of \$ 10 or more).

Gift means ANYTHING of monetary value: e.g., meals, entertainment, travel, lodging, tickets.

Gifts to spouses are not subject to the limits, UNLESS there is reason to believe they are given because of official position of Members or employee.

Some exceptions: gifts from relatives or personal friends (only up to \$ 250 without Ethics Committee approval); gifts of personal hospitality; benefits connected with activities not connected to Senate duties; attendance at widely attended events in connection with official duties, and reimbursement for officially connected travel.

- Employee must obtain written authorization of supervising Member before taking reimbursed travel, and file with Secretary of Senate.
- Member and employee must disclose reimbursed expenses to Secretary of Senate.

Waivers available in “unusual” cases (but gift may need to be disclosed).

Prohibitions on Lobbyists:

- May not reimburse for officially connected travel.
- May not provide gifts of personal hospitality (unless they qualify as personal friend).
- May not contribute to legal defense funds.

- May not make charitable contributions to entities maintained or controlled by Member (e.g., family trust).
- May not make charitable contributions on basis of designation by Member (except in lieu of honoraria).
- May not underwrite or contribute to office conference, retreat, or similar event.

Gifts may NOT be solicited (5 USC 7353).

Gifts to supervisors must be approved by the Ethics Committee (5 USC 7351).

Gifts from foreign governments or officials (5 USC 7342):

- Souvenirs & courtesy gifts may be accepted if \$ 100 or less.
- Gifts >\$ 100 must be given to U.S. government.
- Gifts & approved travel expenses >\$ 100 must be reported to Ethics Committee.

NOTE: DON'T ACCEPT ANYTHING OF VALUE IN RETURN FOR OR BECAUSE OF AN OFFICIAL ACTION (18 USC 201, A CRIMINAL STATUTE).

Senate Rule 35 and Related Statutes

TRAVEL REIMBURSEMENTS

Private sources may not pay for OFFICIAL travel.

Privately funded travel expenses may be accepted from a sponsor if necessary for OFFICIALLY CONNECTED fact-finding or services provided to the sponsor. If a sponsor is a foreign government or foreign organization, Committee approval must be obtained.

Time limits on privately funded travel:

- 3 days, excluding travel time, for domestic travel,
- 7 days, excluding travel time, for foreign travel.

Trips may be extended beyond limits at the individual's expense.

Waiver of time limits available in "exceptional" circumstances.

A spouse or child may accompany a Member, officer, or employee, or a Senate employee may accompany a travelling Member and have necessary expenses paid by the sponsor of a fact-finding event.

Senate Rules 35 and 38; IR's 161, 412, 422

HONORARIA BAN

NO honoraria may be received by any Member, officer or employee.

- An honorarium is a fee for any speech, appearance, or article, including a series of speeches, appearances, or articles if directly related to an individual's Senate duties or if payment is made because of an individual's Senate position.

Up to \$ 2,000 per event may be paid directly by a sponsor to a charity, so

long as neither the individual nor his or her family (parent, sibling, spouse, child or dependent relative) receives any financial benefit from the charity.

Payments in lieu of honoraria must be reported on Public Financial Disclosure Report, and charities named in corresponding confidential report.

Senate Rules 36 and 34

RESTRICTIONS ON OUTSIDE EMPLOYMENT

ALL SENATE MEMBERS, OFFICERS, AND EMPLOYEES

Outside activities may not conflict with an individual's official duties.

All outside employment by employees must be approved by the supervising Senator.

MEMBERS, OFFICERS, AND EMPLOYEES COMPENSATED AT A RATE ABOVE \$ 25,000 AND EMPLOYED FOR MORE THAN 90 DAYS

May not affiliate with outside business organizations for purpose of providing compensated professional services.

Name may not be used by an entity providing professional services.

Generally, no individual may serve as an officer or board member of a publicly held or regulated business organization.

Uncompensated service on board of charitable organizations is permitted, with limitations.

Senate Rules 37 and 36; IR's 208, 227, 286, 308, 312, 342, 431

RESTRICTIONS ON OUTSIDE EMPLOYMENT

RESTRICTIONS ON MEMBERS, OFFICERS, AND EMPLOYEES PAID AT A RATE OF 120% OF GS—15 OR MORE (\$ 83,160 FOR CY 1996)

Outside *earned* income is limited to 15% of Member's salary level (\$ 20,040 for CY 1996).

May not provide compensated professional services involving a fiduciary relationship.

May not be compensated for affiliating with an organization which provides professional services.

No paid service as an officer or board member of ANY organization.

No acceptance of a paid teaching position without prior written approval from the Ethics Committee.

Senate Rules 36 and 37

CONFLICTING INTERESTS

May not receive compensation from any source because of improper

influence exerted from position as Member, officer, or employee of the Senate.

May not use official position to introduce or pass legislation, where a principal purpose is to further a Member, officer, employee, or other immediate family member's financial interests, or the financial interests of a limited class to which such individuals belong.

A Committee employee whose compensation is more than \$ 25,000 for more than 90 days must sell any substantial holdings directly affected by actions of the Committee, unless otherwise approved in writing by supervisor and Ethics Committee.

Without a waiver, employees compensated at a rate above 120% of GS—15 (120% = \$ 83,160 for CY 1996) may not participate in contact with an agency regarding non-legislative matters affecting any non-governmental entity/person in which the employee has a significant financial interest.

Senate Rule 37; IR's 142, 147

POST EMPLOYMENT RESTRICTIONS FOR ONE YEAR AFTER LEAVING OFFICE

Former Members and officers may not attempt to influence current Members, officers, or employees of either the Senate or the House, or any other employee of any other legislative office of Congress.

Former employees from the personal staff of a Member may not attempt to influence that Member or that Member's staff.

Former Committee employees may not attempt to influence any Committee Members or Committee staff.

Former Members and staffers who were involved with trade or treaty negotiations may not aid or advise anyone other than the U.S. government concerning those trade or treaty negotiations.

Former Members, and officers or employees paid at a rate at or above 75% of a Member's salary (\$ 100, 200 for CY 1995 and 1996), may not represent a foreign entity, or aid or advise a foreign entity with an intent to influence a decision by a U.S. government official or employee.

Senate Rule 37 and 18 USC 207 (A Criminal Statute); IR's 79,380

CAMPAIGN ACTIVITIES

Staff may engage in volunteer campaign work only on their own time; compensated campaign work must be approved by supervising Senator.

Staff **MAY NOT** solicit, receive, have custody of, or distribute federal campaign contributions unless they are one of three political fund designs; and then only for certain campaign Committees.

Senate space and equipment may not be used for campaign activities.

Staff may not contribute to their supervising Senator's campaign.

Contributions may not be solicited on, or for delivery to, Senate property.

Note: Certain moratorium periods apply to use of Senate facilities/frank/official expenses before primaries and elections.

Senate Rule 41.1, 31 USC 1301(a), and 18 USC 601-607 (Criminal Statutes); IR's 154, 263, 349, 387

FUNDS FOR SENATE BUSINESS

Private parties may not pay expenses of OFFICIAL Senate duties.

Only Senate funds and a Member's personal funds may be used for OFFICIAL activities.

Some expenses are always deemed OFFICIAL: e.g., office space, staff, furniture, office equipment, and franked mail expenses.

Campaign funds may be used for OFFICIALLY CONNECTED activities, and necessary expenses for OFFICIALLY CONNECTED fact-finding may be paid by event sponsors.

OFFICIALLY-CONNECTED expenses are those related to official duties but not intimately connected to legislative or representational business.

For expenses not always deemed OFFICIAL, a Senator has discretion in determining whether the expense is OFFICIAL or OFFICIALLY CONNECTED.

For example, a conference or town meeting may be OFFICIAL or OFFICIALLY CONNECTED. If it's OFFICIALLY CONNECTED, then Senate funds cannot be used for transportation to the event and the frank cannot be used. If it's OFFICIAL, campaign funds cannot be used.

Interns, fellows, and volunteers may be utilized by an office if they are there primarily for their educational benefit and do not work on issues of particular benefit to sponsors/employers. Public reporting may be required.

Senate Rule 38; IR's 44, 428, 442

FRANK/MASS MAILING

The frank may be used only for official purposes related to legislative or representative functions, which include:

- correspondence regarding legislation;
- assisting or responding to a constituent;
- congratulations for public (not personal) distinctions;

May not use for frank for the benefit of an outside entity.

For example, generally can't mail an outside entity's materials under the frank.

A mass mailing (over 500 substantially identical items within a session;

not in direct response) is subject to a maximum allowance of \$50,000 per FY for each Senator and must be:

- prepared with Senate funds;
- sent under the frank;
- sent through Service Department;
- limited to two sheets of paper;
- identified as paid for by the taxpayers;
- publicly reported quarterly; and
- is subject to a 60-day moratorium before elections.

Senate Rule 40; S. Res. 212

EMPLOYMENT PRACTICES

By law, no one may discriminate against an employee of the legislative branch based on race, color, religion, sex, national origin, age, or disability in any personnel action. In addition, various labour and workplace laws apply to employees of the legislative branch. These include the Fair Labor Standards Act, the Family and Medical Leave Act, the Occupational Safety and Health Act, the Employee Polygraph Protection Act, the Worker Adjustment and Retraining Notification Act, the Rehabilitation Act, and laws relating to federal service labor-management relations, and veterans' employment and re-employment.

The Congressional Accountability Act establishes remedies and procedures for employees in instances of violations of these laws, and creates the Office of Compliance to administer and enforce the rights created under the Congressional Accountability Act.

Employees who believe that their rights under any of these statutes may have been violated should promptly contact the Office of Compliance.

Senate Rule 42; Congressional Accountability Act of 1995

INTERVENTIONS WITH OTHER GOVERNMENT AGENCIES

Appropriate interventions include: urging prompt consideration of a case, making status inquiries, scheduling appointments and interviews, expressing judgements, and requesting reconsideration of a decision based upon current laws and regulations.

However, a decision to provide assistance to a petitioner may not be based upon contributions or services provided to campaigns or other organizations.

EX PARTE communications may be prohibited in some judicial and quasi-judicial proceedings.

Without a waiver, employees compensated at a rate above 120% of GS-15 (120%=\$83,160 for CY 1996) may not participate in contact with an agency regarding non-legislative matters affecting any non-governmental entity/person in which the employee has a significant financial interest. (Rule 37.10)

Hatch Act amendments prohibit certain recommendations or statements regarding personnel actions for non-political Federal employment.

Senate Rule 43; IR 237; Committee Report 102-223; 5 USC 3303

INTERVENTIONS WITH OTHER GOVERNMENT AGENCIES

Other than in the performance of Senate duties:

Members, officers, and employees may not solicit or receive compensation for representing another person or entity before a government agency in a matter in which the U.S. government has an interest. (18 USC 203)

Officers and employees may not represent another person or entity before any other agency in a matter in which the U.S. government has an interest, or prosecute a claim against the U.S. with or without compensation. (18 USC 205)

NOTE: THESE ARE CRIMINAL STATUTES!

APPENDIX IV

[See para 1.22 of the Report]

**HIGHLIGHTS OF
U.S. HOUSE ETHICS RULES**

Earned Income Restrictions

Members and Senior Employees

(Above GS-15: \$ 79,930 in 1993-94; \$ 81,530 in 1995)

EARNED INCOME LIMIT - 15% OF Member's Salary Level ((\$20,040 in 1993-1995)

- NO Paid Professional Services Involving a Fiduciary Relationship.**
- NO Affiliation for Compensation with a Firm Providing Fiduciary Services.**
- NO Use of Name by Firm Providing Fiduciary Services.**
- NO Paid Service as Officer or Board Member of ANY Organization.**
- NO Paid Teaching Without Prior Written Ethics Committee Approval.**

Conflicts of Interest

- Return on investment is not restricted in most instances.
- Official position and confidential information may not be used for personal gain.
- Members should vote on matters unless legislation uniquely affects a personal or financial interest.
- Members may not contract with the Federal Government.
- Spouses and other family members have wide leeway in employment and investments.

Members should avoid doing special favours for family members.

Members may not employ their own families in congressional offices.

Post-Employment Restrictions

For ONE YEAR after leaving office:

Members:

MAY NOT Communicate to or Appear before either House or any Legislative Branch Office with Intent to Influence Official Action on behalf of Third Party;

MAY NOT Represent Foreign Government Interests.
Very Senior Staff (75% of Jan. 1st Member pay: \$ 100,200 in 1993-1995):
MAY NOT Communicate to or Appear before their Former Employers or Offices with Intent to Influence Official Action on behalf of Third Party;

MAY NOT Represent Foreign Government Interests.

MAY represent oneself or state, local, or U.S. government.

This is a criminal statute:

Penalties include injunction, fine, and/or Imprisonment.

Gifts

All Members, Officers and Employees

House Rule 43, Clause 4, Restricts Gift Acceptance:

- \$ 250 maximum in one year from one source;
- Count everything over \$ 100;
- Gifts to spouse, dependents generally included;
- All sources limited except relatives;
- Committee waiver in "exceptional circumstances."
- Personal hospitality of individual not subject to limits:
 - Must document after 4 days, 3 nights;
 - Prior approval if more than 30 days.
- Local meals and beverages not considered gifts;
- Government-wide statute limits solicitation.

WARNING

**NEVER ACCEPT ANYTHING OF VALUE IN RETURN FOR OR BECAUSE OF
OFFICIAL ACTIONS.**

Travel

All Members, Officers and Employees

- Privately paid travel acceptable for fact-finding and substantial participation.
- Limit on number of days:
 - 4 days, including travel time, for domestic;
 - 7 days, excluding travel days, for foreign.
- Committee may waive in "exceptional circumstances"
 - Written request must be submitted in advance.
- May take spouse or another family member.
- May extend trip beyond limits at own expense and on own time.
- Limits don't apply to official travel.

Financial Disclosure

Members, Officers, Senior Employees and Principal Assistants

- Public reports due by May 15th of each year, covering the prior calendar year.
- Must disclose: Income (earned and unearned); assets; liabilities; transactions; gifts; travel; outside positions; agreements.
- Information regarding spouse and dependent children generally must be disclosed.
- Termination reports required with 30 days of departure.
- \$200 late filing fee; possibility of additional Committee action; civil or criminal action may be initiated by the Department of Justice.
- Committee on Standards reviews all reports, and will pre-screen Statements.

Staff Rights and Duties

- Staff must perform duties commensurate with pay and be based in the employer's office.
- Congressional resources and time may be used only for official business.
- No use of official position or inside information for personal gain.
- Office of Fair Employment Practices helps resolve claims of discrimination based on race, colour, religion, sex (including marital or parental status), handicap, age or national origin.
- Members may take into consideration political affiliation and domicile.
- Criminal law prohibits Federal employees from representing others before the Federal Government, outside official duties, in matters in which the Government has a direct and substantial interest.

Communications to Government Agencies

- Avoid favouritism--treat all constituents fairly.
- Avoid ex-parte communications.
- May request information on status; urge prompt consideration; arrange appointments; express judgment; ask for reconsideration, based on law and regulation, of administrative decisions.
- May not make recommendations for non-political positions in the Executive Branch. May provide statement as to character and residence.
- Senior Employees—do not contact agency in a matter if you have a personal financial interest.

Campaign Activities

- **Staff may volunteer on own time.**
- **No campaign activities in the office.**
- **No staff contributions or outlays for employing Member's campaign.**
- **No contributions directed to congressional office.**
- **Campaign funds may be used only for campaign or political purposes.**
- **No official use, personal use, or borrowing of campaign funds.**

Involvement with Outside Entities

- Avoid mixing of public and private resources.
- Official conferences and town meetings may not be jointly sponsored with private groups.
- Do not let outside organizations use terms or symbols indicating a congressional connection.
- Official mailing lists may only be used for franked mail; unofficial lists must be purchased for fair value if not already available for public use.
- Interns and volunteers may be accepted if service is temporary, primarily of educational value to them, and does not supplant the regular duties of paid staff.

APPENDIX VI¹

[See para 2.24 of the report]

THE CODE OF CONDUCT together with THE GUIDE TO THE RULES RELATING TO THE CONDUCT OF MEMBERS OF HOUSE OF COMMONS, UK

The Code of Conduct for Members of Parliament
Prepared pursuant to the Resolution of the House of 19th July 1995

I. Purpose of the Code

The purpose of the Code of Conduct is to assist Members in the discharge of their obligations to the House, their constituents and the public at large.

II. Public duty

By virtue of the oath, or affirmation, of allegiance taken by all Members when they are elected to the House, Members have a duty to be faithful and bear true allegiance to Her Majesty the Queen, her heirs and successors, according to law.

Members have a duty to uphold the law and to act on all occasions in accordance with the public trust placed in them.

Members have a general duty to act in the interest of the nation as a whole; and a special duty to their constituents.

III. Personal conduct

Members shall observe the general principles of conduct identified by the Committee on Standards in Public Life's as applying to holders of public office:—

"Selflessness

Holders of public office should take decisions solely in terms of the public interest. They should not do so in order to gain financial or other material benefits for themselves, their family, or their friends.

Integrity

Holders of public office should not place themselves under any financial or other obligations to outside individuals or organisations

¹Cm 2830, p. 14.

that might influence them in the performance of their official duties.

Objectivity

In carrying out public business, including making public appointments, awarding contracts, or recommending individuals for rewards and benefits, holders of public office should make choices on merit.

Accountability

Holders of public office are accountable for their decisions and actions to the public and must submit themselves to whatever scrutiny is appropriate to their office.

Openness

Holders of public office should be as open as possible about all the decisions and actions that they take. They should give reasons for their decisions and restrict information only when the wider public interest clearly demands.

Honesty

Holders of public office have a duty to declare any private interests relating to their public duties and to take steps to resolve any conflicts arising in a way that protects the public interest.

Leadership

Holders of public office should promote and support these principles by leadership and example."

Members shall base their conduct on a consideration of the public interest, avoid conflict between personal interest and the public interest and resolve any conflict between, the two, at once, and in favour of the public interest.

Members shall at all times conduct themselves in a manner which will tend to maintain and strengthen the public's trust and confidence in the integrity of Parliament and never undertake any action which would bring the House of Commons, or its Members generally, into disrepute.

The acceptance by a Member of a bribe to influence his or her conduct as a Member, including any fee, compensation or reward in connection with the promotion of, or opposition to, any Bill, Motion,

or other matter submitted, or intended to be submitted to the House, or to any Committee of the House, is contrary to the law of Parliament.

Members shall fulfil conscientiously the requirements of the House in respect of the registration of interests in the Register of Member's Interests and shall always draw attention to any relevant interest in any proceeding of the House or its Committees, or in any communications with Ministers, Government Departments or Executive Agencies.

In any activities with, or on behalf of, an organisation with which a Member has a financial relationship, including activities which may not be a matter of public record such as informal meetings and functions, he or she must always bear in mind the need to be open and frank with Ministers, Members and officials.

No Member shall act as a paid advocate in any proceeding of the House.

No improper use shall be made of any payment or allowance made to Members for public purposes and the administrative rules which apply to such payments and allowances must be strictly observed.

Members must bear in mind that information which they receive in confidence in the course of their parliamentary duties should be used only in connection with those duties, and that such information must never be used for the purpose of financial gain.

**The Guide to the Rules
relating to the Conduct of Members
of House of Commons**

Introduction

1. The purpose of this Guide is to assist Members in discharging the duties placed upon them by the Code of Conduct agreed by the House. It replaces the Guide issued by the Registry of Members' Interests in October 1994 relating to the registration and declaration of Members' financial interests and the guidance on the registration of interests contained in the First Report of the Select Committee on Members' Interests. Session 1991-92 (HC 326).

2. No written guidance can provide for all circumstances; when in doubt Members should seek the advice of the Parliamentary Commissioner for Standards who, if necessary, will seek adjudication from the Committee on Standards and Privileges.

3. The Guide is divided into four Sections dealing with (1) Registration of Interests (paragraphs 8-36); (2) Declaration of Interests (paragraphs 37-52); (3) the Advocacy Rule (paragraphs 53-65) and (4) Procedure for Complaints (paragraphs 66-73).

4. The Code of Conduct provides a framework within which acceptable conduct should be judged. The purpose of the Resolution of 6th November, 1995 relating to "Conduct of Members" is to remove a major area of potential conflict of interest by prohibiting paid advocacy. This Guide contains guidelines (paragraph 58) to assist Members in applying the new rule. A further rule (paragraph 65) deals with the conflict of interest that may arise when a Member holding a relevant financial interest takes part in a delegation involving the source of that interest.

5. Other Resolutions of the House, agreed on 19th July and 6th November 1995, supplement and strengthen the long established rules on disclosure of financial interest. The House has two distinct but related methods for the disclosure of the personal financial interests of its Members; registration of interests in a Register which is open for public inspection; and declaration of interest in the course of debate in the House and in other contexts. The main purpose of the Register is to give public notification on a continuous basis of those pecuniary interests held by Members which might be thought to influence their parliamentary conduct or actions. The main purpose of declaration of interest is to ensure that fellow Members of the House and the public are made aware, at the appropriate time when a Member is making a speech in the House or in Committee or participating in any other proceedings of the House, of any past, present or expected future pecuniary interest which might reasonably

be thought to be relevant to those proceedings. The Resolution of 19th July, 1995 provides for declaration of interest in respect of all written notices (paragraph 42). The Resolution of 6th November, 1995 relating to certain employment agreements requires the deposit of such agreements with the Commissioner for Standards (paragraphs 35 and 36).

6. The rules described in this Guide derive their authority from Resolutions of the House, rather than from statute or common law, and are therefore enforceable by the House of Commons.

7. Ministers of the Crown who are Members of the House of Commons are subject to the rules of registration, declaration and advocacy in the same way as all other Members. In addition, Ministers are subject to further guidelines and requirements laid down by successive Prime Ministers in order to ensure that no conflict arises, nor appears to arise, between their private interests and their public duties ("Questions of Procedure for Ministers"). These requirements are not enforced by the House of Commons and so are beyond the scope of this Guide.

1. Registration of Members' Interests

Rules of the House

"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."

(Resolution of the House of 22nd May 1974)

"For the purposes of the Resolution of the House of 22nd May, 1974 in relation of disclosure of interests in any proceeding of the House or its Committees any interest declared in a copy of the Register of Members' Interests shall be regarded as sufficient disclosure for the purpose of taking part in any division of the House or in any of its Committees."

(Part of the Resolution of the House of 12th June 1975)

8. Under the Resolution agreed by the House on 22nd May 1974, and under the Code of Conduct, Members are required to register their pecuniary interests in a Register of Members' Interests. The duty of compiling the Register rests with the Parliamentary Commissioner for Standards whose functions, set out in a Standing Order of the House, include those formerly exercised by the Registrar of Members' Interest.

Definition of the Register's purpose

9. The main purpose of the Register of Members' interests is "to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in his

or her capacity as a Member of Parliament.”¹ The registration form specifies ten Categories of registrable interests which are described below. Apart from the specific rules, there is a more general obligation upon Members to keep the overall definition of the Register’s purpose in mind when registering their interests.

Duties of Members in respect of registration

10. Members of Parliament are required to complete a registration form and submit it to the Commissioner for Standards within three months of taking their seats after a general election. For a Member returned at a by-election, the time limit is also three months. After the initial publication of the Register (or, in the case of Members returned at by-elections, after their initial registration) it is the responsibility of Members to notify changes in their registrable interests within four weeks of each change occurring.

11. Any Member having a registrable interest which has not at the time been registered, shall not undertake any action, speech or proceeding of the House (save voting) to which the registration would be relevant until notification has been given to the Commissioner for Standards of that interest.

12. Members are responsible for making a full disclosure of their interests, and if they have relevant interests which do not fall clearly into one or other of the specified categories, they are nonetheless expected to register them.

Publication and public inspection

13. The Register is published soon after the beginning of a new Parliament, under the authority of the Committee on Standards and Privileges, and annually thereafter. Between publications the Register is regularly updated in a loose leaf form and, in that form, is available for public inspection in the Committee Office of the House of Commons. At the discretion of the Commissioner copies of individual entries in the Register may be supplied on request. However, the employment agreements deposited with the Commissioner which relate to registered interests (paragraph 35) are available for personal inspection only.

THE CATEGORIES OF REGISTRABLE INTEREST

[Note: Each of the boxes in this section contains a description of one of the Categories of interests which the House has agreed should be registered and which appear in the registration form]

CATEGORY 1

Directorships: Remunerated directorships in public and private companies including directorships which are individually unremunerated, but where remuneration is paid through another company in the same group.

¹Select Committee on Members’ Interests, First Report, Session 1991-92, “Registration and Declaration of Financial Interests”, HC 326. paragraph 27.

14. In this Category, and in others, "remuneration" includes not only salaries and fees, but also the receipt of any taxable expenses, allowances, or benefits, such as the provision of a company car. It is necessary to register the name of the company in which the directorship is held and to give a broad indication of the company's business, where that is not self-evident from its name. In addition to any remunerated directorships, a Member is also required to register any directorships he or she holds which are themselves unremunerated but where the companies in question are associated with, or subsidiaries of, a company in which he or she holds a remunerated directorship. Otherwise, Members are not required to register unremunerated directorships (see Category 10).

15. Companies which have not begun to trade or which have ceased trading need not be registered, either under this Category or under Category 9 (shareholdings). "Not trading" should, however, be interpreted in a strict sense; if a company is engaged in any transaction additional to those required by law to keep it in being, then a remunerated directorship in that company should be registered. If a Member wishes to register a directorship in a company which is not trading the Member should make the position clear by adding the words "not trading" after the name of the company.

CATEGORY 2

Remunerated Employment, Office, Profession, etc: Employment, office, trade, profession or vocation (apart from membership of the House or Ministerial office) which is remunerated or in which the Member has any pecuniary interest. Membership of Lloyd's should be registered under this Category.

16. All employment outside the House and any sources of remuneration which do not fall clearly within any other Category should be registered here. When registering employment, Members should not simply state the employer company and the nature of its business, but should also indicate the nature of the post which they hold in the company or the services for which the company remunerates them. Members who have paid posts as consultants or advisers should indicate the nature of the consultancy, for example "management consultant", "legal adviser", "parliamentary and public affairs consultant".

17. Members who have resigned from Lloyd's should continue to register their interest as long as syndicates in which they participated continue to have years of account which are open or in run-off. The date of resignation should be registered in such circumstances. Members of Lloyd's are also required to disclose the categories of insurance business which they are underwriting. Any member of Lloyd's receiving financial assistance (including relief from indebtedness or other loan concessions but excluding any general settlement available to all Lloyd's members) from a company, organisation or person within or outside the United Kingdom should register that interest under Categories 5 or 7, as appropriate.

18. Members who have previously practised a profession may wish to register that profession under this Category with bracketed remark such as “[non practising]” after the entry. This is particularly desirable in cases of sleeping partnerships and where it is likely that the Member will resume the profession at a later stage.

CATEGORY 3

Clients: In respect of any paid employment registered in Category 1 (Directorships) and Category 2 (Remunerated employment, office, profession, etc.), any provision to clients of services which depend essentially upon, or arise out of, the Member's position as a Member of Parliament should be registered under this Category. All clients to which personal services are provided should be listed together with the nature of the client's business in each case. Where a Member receives remuneration from a company or partnership engaged in consultancy business which itself has clients, the Member should list any of those clients to whom personal services or advice is provided, either directly or indirectly.

19. The types of services which are intended to be covered here include those connected with any parliamentary proceeding, or other services relating to membership. A Member who has clients in a non-parliamentary professional capacity (for example as a doctor, solicitor or accountant) is not required to register those clients, provided it is clear beyond doubt that the services which are being provided do not arise out of or relate in any manner to membership of the House.

20. Under this Category, if a Member is employed as a parliamentary adviser by a firm which is itself a consultancy and therefore is providing such advice and services to its clients, the Member should disclose those of the consultancy's clients with whom he or she has a personal connection or who benefit from the Member's advice and services. The same requirement applies where a Member, on his or her own account, accepts payment or material benefit for providing such services, but not on such a regular basis as to warrant registration as employment under Category 2. Where a company is named as a client, the nature of the company's business should be indicated.

CATEGORY 4

Sponsorships:

(a) Any sponsorship prior to an election where, to the Member's knowledge, the financial support in any case exceeded 25 per cent of the election expenses at that election.

(b) Any other form of sponsorship or financial or material support as a Member of Parliament which involves any personal payment, benefit, or advantage. If any of these arrangements involve payment to the Member or any material benefit or advantage which the Member personally receives this should be indicated.

21. This Category deals with sponsorship by companies, trade unions, professional bodies, trade associations and other organisations. Under subsection (a) the Member is required to register the source of any contribution to his or her election expenses in excess of 25 per cent of the total of such expenses. Sub-section (b) relates to other forms of sponsorship, which is interpreted to cover any regular or continuing support from companies or organisations from which the Member receives any financial or material benefit in support of his or her role as a Member of Parliament. Members should register any sponsorship arrangement in which they are personally involved and irrespective of whether they received personal payment. If a company is the sponsor the nature of its business should be indicated.

22. Members are also required to register (and declare where relevant) any substantial donations which are made by an organisation or company on a regular basis to their constituency party when such donations are linked directly to their own candidacy or membership of the House. For this purpose "substantial" means any payment (or benefit in kind of an equivalent value) of £500 or more per annum. However, donations made directly to a constituency party as an expression of general political support, not linked to the Member's candidacy or membership of the House, should not be registered. Similarly it is not necessary to register a trade union donation to a constituency party which is not linked to the promotion of a particular parliamentary candidate.

23. The provision of services of a research assistant or secretary whose salary, in whole or in part, is met by an external organisation, and the provision of free or subsidised accommodation for the Member's use, other than accommodation provided solely by the constituency party, should be registered, as appropriate, either in this section or under Category 5 "Gifts, benefits and hospitality": except that accommodation provided by a local authority at no cost, or at a subsidised cost, to a Member for the sole purpose of holding constituency surgeries is exempt from registration.

CATEGORY 5

Gifts, benefits and hospitality (U.K.): Any gift to the Member or the Member's spouse of greater value than £125 or any material benefit of a value greater than 0.5 per cent of the current parliamentary salary from any company, organisation or person within the UK which in anyway relates to membership of the House.

24. The specified financial values above which gifts, hospitality and any other benefit must be registered are:—

- (a) for tangible gifts (such as money, jewellery, glassware etc.), £125;
- (b) for other benefits (such as hospitality, tickets to sporting and cultural events, relief from indebtedness, loan concessions, provision of services etc.), 0.5 per cent of a Member's annual parliamentary salary. (About £215 as at 12th July 1996.)

The rule means that any gift, or other benefit, which in any way relates to membership of the House and which is given gratis, or at a cost below that generally available to members of the public, should be registered whenever the value of the gift or benefit is greater than the amounts specified in (a) or (b) above. Any similar gift or benefit which is received by any company or organisation in which the Member, or the Member and the Member's spouse jointly, have a controlling interest should also be registered.

25. There are two important exceptions to this rule: gifts and benefits known to be available to all Members or Parliament need not be registered; and a Member need not register attendance at a conference or a site visit within the United Kingdom where the organiser meets reasonable travel costs and subsistence only.

26. Gifts and material benefits in this Category (and other Categories) are exempt from registration if they do not relate in any way to membership of the House. The extent to which this exemption applies in any particular case is necessarily a matter of judgement. Both the possible motive of the giver and the use to which the gift is put have to be considered: if it is clear on both counts that the gift or benefit is entirely unrelated to membership of the House, or would not reasonably be thought by others to be so related, it need not be registered. If there is any doubt it should be registered.

CATEGORY 6

Overseas visits: With certain specified exceptions, overseas visits made by the Member or the Member's spouse relating to or in anyway arising out of membership of the House where the cost of the visit was not wholly borne by the Member or by United Kingdom public funds.

27. The Member should enter in the Register the date, destination and purpose of the visit and the name of the Government, organisation, company or individual which met the cost. Where only part of the cost was borne by an outside source (for example the cost of accommodation but not the cost of travel), those details should be stated briefly. When an overseas visit was arranged by a registered All-Party or parliamentary group or by a party backbench group, it is not sufficient to name the group as the sponsor of the visit: the Government, organisation, company or person ultimately meeting the cost should be specified.

28. The following categories of visit, which are mainly paid for from United Kingdom public funds or which involve reciprocity of payment with other Governments or Parliaments, together with any hospitality associated with such a visit and available to all participants, are exempt from registration:—

- (i) Visits which are paid for by, or which are undertaken on behalf of, Her Majesty's Government or which are made on behalf of an international organisation to which the United Kingdom Government belongs;
- (ii) Visits abroad with, or on behalf of, a Select Committee of the House;
- (iii) Visits undertaken on behalf of, or under the auspices of, the Commonwealth Parliamentary Association, the Inter-Parliamentary Union (or the British-Irish Parliamentary Body), the British American Parliamentary Group, the Council of Europe, the Western European Union, the Westminster Foundation for Democracy, the North Atlantic Assembly or the OSCE Parliamentary Assembly;
- (iv) Visits arranged and paid for wholly by a Member's own political party;
- (v) Visits paid for wholly by an institution of the European Union or by a political group of the European Parliament;
- (vi) Visits as part of an Industry and Parliament Trust Fellowship.

Visits which are entirely unconnected with membership of the House are also exempt from registration.

CATEGORY 7

Overseas benefits and gifts: Any gift to the Member or the Member's spouse of greater value than £125 or any material advantage of a value greater than 0.5 per cent of the current parliamentary salary from or on behalf of any investment, organisation or person which in anyway relates to membership of the House.

29. The financial limits and guidelines which apply to the previous Category also apply here. Members should enter a cross-reference under this Category where an interest already entered in Categories 1, 2 or 3 entails the receipt of payments from abroad.

CATEGORY 8

Land and Property: Any land or property, other than any home used for the personal residential purposes of the Member or the Member's spouse, which has a substantial value or from which a substantial income is derived. The nature of the property should be indicated.

30. Second homes need not be registered under this Category unless regularly let at commercial rents; but a farm on which the Member has a residence should be registered because it has a substantial value aside from the residential use. Entries should be reasonably specific as to the nature of the property and its general location, for example:—

“Woodland in Perthshire”

“Dairy farm in Wiltshire”

“3 residential rented properties in Manchester”.

CATEGORY 9

Shareholdings: Interest in shareholdings held by the Member, either personally, or with or on behalf of the Member's spouse or dependent children, in any public or private company or other body which are:

(a) greater than 1 per cent of the issued share capital of the company or body; or

(b) less than 1 per cent of the issued share capital but more than £25,000 in nominal value.

The nature of the company's business in each case should be registered.

31. When determining whether or not shareholdings are registrable under the criteria set out above. Members should include not only holdings in which they themselves have a beneficial interest but also those in which

the interest is held by, or on behalf of, their spouse or dependent children. For each registrable shareholding, the entry should state the name of the company or body, briefly indicate the nature of its business, and make clear which of the criteria for registration is applicable.

32. In considering whether to register any shareholdings falling outside (a) and (b) Members should have regard to the definition of the main purpose of the Register: "to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches or votes in Parliament, or actions taken in his or her capacity as a Member of Parliament". If a Member considers that any shareholding which he or she holds falls within this definition, the Member should register the shareholding either in this Category or under Category 10.

CATEGORY 10

Miscellaneous: Any relevant interest, not falling within one of the above categories, which nevertheless falls within the definition of the main purpose of the Register which is "to provide information of any pecuniary interest or other material benefit which a Member receives which might reasonably be thought by others to influence his or her actions, speeches, or votes in Parliament, or actions taken in his or her capacity as a Member of Parliament," or which the Member considers might be thought by others to influence his or her actions in a similar manner, even though the Member receives no financial benefit.

33. The main purpose of this Category is to enable Members to enter in the Register any interest which they consider to be relevant to the Register's purpose, but which do not obviously fall within any of the other categories. As the Select Committee on Members' Interest pointed out in its First Report of Session 1991-92: "it is a cardinal principle that Members are responsible for making a full disclosure of their own interests in the Register; and if they have relevant interests which do not fall clearly into one or other of the specified Categories, they will nonetheless be expected to register them".²

34. The general principle of the Register is that the requirement to register is limited to interest entailing remuneration or other material benefit.³ Members are not, therefore, required by the rules to register unremunerated directorships (e.g. directorships of charitable trusts, professional bodies, learned societies or sporting or artistic organisations) and the Category should not be used to itemise these or other

²Op. cit., paragraph 29.

³Ibid, paragraph 31.

unremunerated interests. However, when a Member considers that an unremunerated interest which the Member holds might be thought by others to influence his or her actions in a similar manner to a remunerated interest, such an interest may be registered here.

Employment Agreements

“Any Member proposing to enter into an agreement which involves the provision of services in his capacity as a Member of Parliament shall conclude such an agreement only if it conforms to the Resolution of the House of 6th November 1995 relating to Conduct of Members; and a full copy of any such agreement including the fees or benefits payable in bands of: up to £1,000, £1,000—£5,000, £5,000—£10,000, and thereafter in bands of £5,000, shall be deposited with the Parliamentary Commissioner for Standards at the same time as it is registered in the Register of Members’ Interests and made available for inspection by the public.”

“Any Member who has an existing agreement involving the provision of services in his capacity as a Member of Parliament which conforms to the Resolution of the House of 6th November 1995 relating to Conduct of Members, but which is not in written form, shall take steps to put the agreement in written form; and no later than 31st March 1996 a full copy of any such agreement including the fees or benefits payable in bands of: up to £1,000, £1,000—£5,000, £5,000—£10,000, and thereafter in bands of £5,000 shall be deposited with the Parliamentary Commissioner for Standards and registered in the Register of Members’ Interest and made available for inspection by the public.”

(Part of a Resolution of the House of 6th November 1995)

[Note: To avoid overlap between bands, the Committee on Standards and Privileges has adopted bands of: up to £1,000, £1,000—£5,000, £5,001—£10,000, etc.]

35. Under a Resolution of the House of 6th November 1995 the House agreed that Members should deposit certain employment agreements with the Parliamentary Commissioner for Standards. The two Resolutions set out above have continuing effect. Any Member who has an existing agreement or proposes to enter into an agreement which involves the provision of services in his or her capacity as a Member of Parliament should:

- ensure, that the agreement does not breach the advocacy rule (see paragraphs 53—65 below);
- put any such agreement in written form;
- deposit a full copy of the agreement with the Parliamentary Commissioner for Standards. The agreement should indicate the nature of the services to be provided and specify the fees or benefits the Member is to receive in bands of (1) up to £ 1,000; (2) £1,001 to £5,000; (3) £5,001 to £10,000 (and thereafter in bands of £5,000).
- Make the appropriate entry in the Register of Members’ Interests; and

— declare the interest when it is appropriate to do so (see paragraphs 37—52).

Deposited agreements may be inspected in the Committee Office of the House of Commons. The terms of the Resolution of the House do not permit the taking of copies.

36. The Select Committee on Standards in Public Life⁴ gave the following guidance in respect of their application of the rule:—

“39. The present rule is that all remunerated outside employment must be included in the Register, irrespective of whether it has any bearing on a Member’s actions in Parliament. We have no doubt that this discipline should continue to be observed.

40. If our recommendation that paid advocacy in Parliament should be prohibited altogether is adopted by the House, it is essential that no future agreements should require Members to take part in activities which can be described as advocacy.

41. The new requirement for employment agreements to be put in writing will apply principally to any arrangement whereby a Member may offer advice about parliamentary matters. We think it right, however, that it should also include frequent, as opposed to merely occasional, commitments outside Parliament which arise directly from membership of the House. For example, a regular, paid newspaper column or television programme would have to be the subject of a written agreement, but *ad hoc* current affairs or news interviews or intermittent panel appearances would not.

42. It may not always be immediately obvious whether a particular employment agreement arises directly from, or relates directly to, membership of the House. At one end of the spectrum are those Members whose outside employment pre-dates their original election, whilst at the other extreme are those who have taken up paid adviserships since entering the House. In between there will be many cases which are difficult to classify. Some Members, for example, may provide advice on Parliamentary matters incidentally as part of a much wider employment agreement covering matters wholly unrelated to the House. In these circumstances, it would be for an individual Member to decide how far it would be proper to isolate the Parliamentary services within a separate, depositable agreement: in reaching that decision he may wish to consult the Commissioner.

On the basis of this guidance the Committee on Standards and Privileges has agreed that:—

— a regular paid newspaper column, or regular contribution to a radio

⁴Select Committee on Standards in Public Life, Second Report, Session 1994-95, HC 816, p.xi.

or television programme, need not be the subject of a written agreement if its subject is wholly unrelated to parliamentary or public affairs (e.g. a sports column); and

- disclosing the remuneration for parliamentary services separately from remuneration for other services would be justified only in exceptional circumstances: e.g. where the parliamentary services are separately identifiable and form only a small proportion of the services as a whole. In any such case the entry in the Register should make it clear that the remuneration is for parliamentary services as part of a wider agreement.

The scope of the Resolutions is not limited to employment registered under Category 2 (Remunerated employment, office, profession, etc.) but includes other forms of employment, such as directorships (including non-executive directorships), when these involve the provision of services by the Member in his or her capacity as a Member of Parliament.

2. Declaration of Members' Interests

Rules of the House

"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".

(Resolution of the House of 22nd May 1974)

"For the purposes of the Resolution of the House of 22nd May 1974 in relation to disclosure of interests in any proceeding of the House or its Committees:

- (i) Any interest declared in a copy of the Register of Members' Interests shall be regarded as sufficient disclosure for the purpose of taking part in any division of the House or in any of its Committees.
- (ii) The term 'proceeding' shall be deemed not to include the asking of a supplementary question."

(Resolution of the House of 12th June 1975, amended on 19th July 1995)

"This House takes note of the First Report from the Select Committee on Members' Interests, Session 1990-91 (House of Commons Paper No. 108), relating to the interests of Chairmen and members of Select Committees, and approves the recommendations of the Committee relating to declaration of interest in Select Committees (paragraphs 8 to 16), withdrawal from Committee proceedings (paragraph 24) and procedures prior to the election of a Chairman (paragraph 25)."

[Resolution of the House of 13th July 1992 Members' Interests (interests of Chairmen and members of Select Committees)]

37. In 1974 the House replaced a long standing convention with a rule that any relevant pecuniary interest or benefit of whatever nature, whether direct or indirect, should be declared in debate, or other proceeding. The same rule places a duty on Members to disclose to Ministers, or servants of the Crown, all relevant interests. The term 'servants of the Crown' should be interpreted as applying to the staff of executive agencies as well as to all staff employed in government departments.

Past and potential interests

38. The rule relating to declaration of interest is broader in scope than the rules relating to the registration of interests in two important respects. As well as current interests, Members are required to declare both relevant past interests and relevant interests which they may be expecting to have. In practice only interests held in the recent past, i.e. those contained in the current printed edition of the Register, need normally be considered for declaration. Expected future interests, on the other hand, may be more significant. Where, for example, a Member is debating legislation or making representations to a Minister on a matter from which he has a reasonable expectation of personal financial advantage, candour is essential. In deciding when as possible future benefit is sufficiently tangible to necessitate declaration, the key word in the rule which the Member must bear in mind is "expecting." Where a Member's plans or degree of involvement in a project have passed beyond vague hopes and aspirations and reached the stage where there is a reasonable expectation that a financial benefit will accrue, then a declaration explaining the situation should be made.

Relevance

39. It is responsibility of the Member, having regard to the rules of the House, to judge whether a pecuniary interest is sufficiently relevant to a particular debate, proceeding, meeting or other activity to require a declaration. The basic test of relevance should be the same for declaration as it is for registration of an interest; namely, that a pecuniary interest should be declared if it might reasonably be thought by others to influence the speech, representation or communication in question. A declaration should be brief but sufficiently informative to enable a listener to understand the nature of the Member's interest.

40. The House has endorsed the following advice on the occasions when such a declaration of interest should be made: "no difficulty should arise in any proceeding of the House or its Committees in which the Member has an opportunity to speak. Such proceedings, in addition to debates in the House, include debates in Standing Committees, the presentation of a

Public Petition, and meetings of Select Committees at which evidence is heard. On all such occasions the Member will declare his interest at the beginning of his remarks... it will be a matter of judgement, if his interest is already recorded in the Register, whether he simply draws attention to this or makes a rather fuller disclosure".⁵ Any declaration "should be sufficiently informative to enable a listener to understand the nature of the Member's pecuniary interest....".⁶

41. In a debate in the House the Member should declare an interest briefly, usually at the beginning of his or her speech. If the House is dealing with the Committee or Consideration stages of a Bill it will normally be sufficient for the Member to declare a relevant interest when speaking for the first time. In Standing Committee Members should declare relevant interests at the first meeting of the Committee or on the first occasion on which they address the Committee. It will not be necessary for a declaration to be repeated at subsequent meetings except when the Member speaks on a Amendment to which the interest is particularly relevant. When giving notice of an Amendment or a Motion (including a Motion for leave to introduce a "Ten Minute Rule" Bill), giving notice of the presentation of a Bill or adding a name to an Amendment or Motion, Members should declare any relevant interest in the appropriate manner (*see* paragraphs 42—45 below).

Declaration of interest in respect of written notices

42. On 19th July, 1995 the House agreed, with effect from the beginning of Session 1995-96, to extend the rules relating to declaration of interest by abolishing the exemption granted to the giving of written notices in the Resolution of 22nd May, 1974. Declaration of relevant interest is required on the Order Paper (or Notice Paper) when tabling any written notice, i.e.:

- (a) Questions (for oral or written answer, including Private Notice Questions);
- (b) Early Day Motions, Amendments to them, or any names added in support of such Motions or Amendments;
- (c) a notice of a Motion for leave to introduce a "Ten Minute Rule" Bill;
- (d) a notice for the presentation of a Bill (including a "Ballot" Bill);
- (e) any other Motions, Amendments, or added names in support of them;
- (f) Amendments to Bills (whether to be considered in the House or in a Committee) and any names added in support of them.

⁵Select Committee on Members' Interests (Declaration), First Report, Session 1974-75, HC 102, paragraph 43; approved by the House, 12th June, 1975.

⁶Select Committee on Members' Interests, First Report, Session 1991-92, *op. cit.*, paragraph 80.

43. Whenever such an interest is declared, the symbol “[R]” is printed after the Member’s name on the Notice Paper or Order Paper. The Office accepting the written notice (including any written notice of a Member adding his or her name to a Motion or an Amendment) assumes that no interest is declarable unless the notice clearly indicates a declaration: this should be done by inserting “[R]” after the Member’s name on the Motion or Amendment, as the case may be, or filling in the appropriate box which appears on the form for parliamentary Questions.

44. “Relevant interests” which should be declared include any interest which the Member is required to register in the Register of Members’ Interests, or which the Member should declare in debate. It will therefore usually be the case that the interest to which the Member is drawing the attention of the House will already be entered in the Register. Provided it is readily apparent which of the Member’s registered interests are applicable, the Member need take no further action. If this is not the case, or if the interest is a new interest which is not yet available for inspection in the Register, then the Member when giving notice should attach to that notice a brief written description of the interest which is being declared. This will then be available for inspection by Members in the Office where the notice was given: viz., the Table Office, the Public Bill Office, or the Private Bill Office. In the case of Private Notice Questions which are allowed, a Member with a relevant interest should declare that interest when the Question is formally asked in the House.

45. All Members need to exercise particular care when invited to add their names to any EDMs or other Motions or Amendments and to ensure that they have considered whether they have a relevant declarable interest. Given the informal way in which support for Motions and Amendments is often sought, the need for declaration may not be foremost in Members’ minds, but great care needs to be exercised by members in these circumstances.

Declaration of interest in applications for adjournment or emergency debates

46. Requests for emergency debates under Standing Order No. 20 and applications for daily adjournment debates and adjournment debates on Wednesday mornings are made to the Speaker. Such applications should be accompanied by a declaration of any relevant interest. When a Member is notified that he or she had been successful in obtaining an adjournment debate it is the Member’s responsibility to notify the Table Office and to ensure that an indication of the relevant interest appears at the earliest opportunity on the Notice Paper or Order Paper. The procedure will be similar to that for written notices described in paragraph 42. If the Speaker allows a Member to present an application to the House for an emergency debate under Standing Order No. 20 a Member with a relevant interest

should begin his or her remarks to the House with a declaration of that interest.

Declaration of interest in Select Committees

47. Members of Select Committees on any matter or Bill are bound by the Resolution of the House of 13th July, 1992 which approved certain paragraphs of a Report by the Select Committee on Members' Interests relating to the financial interests of Chairmen and Members of Select Committees.⁷ The main provisions are:

- “before the Committee proceeds to the election of a Chairman all Members nominated to serve upon a Select Committee are required to send to the Clerk of the Committee details of any pecuniary interests for circulation to the Committee under the authority of the senior Member before its first meeting. The procedure is not necessary in the case of Select Committees of a wholly procedural nature.” [Paragraph 25]
- “when a member of a Committee particularly the Chairman, has a pecuniary interest which is directly affected by a particular inquiry or when he or she considers that a personal interest may reflect upon the work of the Committee or its subsequent Report, the Member should stand aside from the Committee proceedings relating to it.” [Paragraph 24]
- “before proceeding to business after the election of the Chairman, the Chairman of the Committee should invite all members of the Committee to declare any interests they may have which relate to the terms of reference of that Committee, or which are likely to be relevant to a substantial part of the work which the Committee may be expected to undertake.” [Paragraph 13]
- “A Member should make a declaration of interest at an early stage in any inquiry to which that interest particularly relates. If the interest is especially relevant to one witness or group of witnesses appearing before the Committee, the interest should be declared again at the appropriate session of evidence.” [Paragraph 13]
- A Member is required to “declare an interest when asking any questions which relate directly, or which might reasonably be thought by others to relate directly, to the pecuniary interest he or she holds... Such a declaration must be made irrespective of any declaration having been made at an earlier meeting of the Committee”. One such declaration is sufficient for any questions asked of the same witnesses during one evidence Session. [Paragraph 13]

⁷Select Committee on Members' Interests, First Report, Session 1990-91, HC 108. The paragraphs which the House specifically approved were: 8—16, 24 and 25. The references in square brackets relate to the paragraphs in that Report.

- “Although the main purpose of declaration of interest is to inform colleagues, it is right that witnesses and the public, if the Committee is meeting in public, should also be informed. When a Committee meets in public, declaration of interest should be in public Session. When a Committee meets in private and regularly takes oral evidence, declaration should be made when witnesses are present.” [Paragraph 13]
- “In making any declaration a Member should clearly identify the nature of the pecuniary interest. The form in which a declaration of interest is made, and its extent, must be primarily for the individual Member.” A casual reference is not sufficient. “A Member should make a declaration in clear terms and should ensure that such a declaration is entered in the Minutes of Proceedings of the Committee.” [Paragraph 14]
- It is “perfectly acceptable for a Member, when declaring an interest which is registered in the Register of Members’ Interests ...to refer to his or her entry in the Register.” [Paragraph 16]
- “We stress the importance of declaration when relevant and of declaring a pecuniary interest at the moment when it is most appropriate to do so. We do not wish to create a situation where the proceedings of Committees are frequently interrupted by declarations of tangential relevance to what is being considered...the interests that a Member is required to register may not be at all relevant to his or her work on the Select Committee and consequently may never need to be declared during its proceedings.” [Paragraph 16]

48. Where the subject matter of an inquiry of a Select Committee is of direct concern to an outside body in which a Member has a pecuniary interest, the Member must consider whether on grounds of conflict of interest it is proper to take part in the inquiry. The Member must also consider whether the relationship of his or her interest to the subject of the inquiry is so close that it is not possible to participate effectively in the inquiry without crossing the borderline into advocacy.

Rule on declaration of interests relating to Private Bills

49. Under Standing Order 120 relating to Private Business a Member nominated by the Committee of Selection to serve on a Committee on a Private Bill is required to sign a declaration “that my constituents have no local interest, and I have no personal interest, in the said Bill”. To be disqualified the Member’s interest must be a direct interest where there is a potential benefit or disadvantage to the Member arising from the matter in issue; or the constituency interest must be a local interest affecting the constituency as a whole or a significant number of constituents. Where a Member is in doubt, the Clerk of Private Bills should be consulted.

Other occasions when declaration of interest should be considered

50. The requirement to declare a relevant interest at the appropriate time covers almost every aspect of a Member's Parliamentary duties extending to correspondence and meetings with Ministers and public officials. Frankness with colleagues is also important. In 1975 the House agreed to the report of the Select Committee on Members' Interests (Declaration) which contained these words: "it should be a matter of honour that a pecuniary interest is declared not only, as at present, in debate in the House and its Committees but also whenever a Member is attempting to influence his fellow Members, whether in unofficial committees and gatherings or at any kind of sponsored occasion, with or without entertainment, or simply in correspondence or conversation. Above all it should be disclosed when a Member is dealing with Ministers of the Crown and civil servants, and this obligation becomes of paramount importance when a foreign government is involved either directly or indirectly".⁸

51. In its application of the 1974 Resolution the House has always recognised that there are certain proceedings where declaration of interest is impracticable; e.g. during oral Questions or when asking a question in response to ministerial statement on a matter of public policy or supplementary to a Private Notice Question. (The Member asking the Question should, however, declare an interest; see paragraphs 42—44.) However, Members are advised to declare any relevant interest when such a declaration does not unduly impede the business of the House, for example in relation to a request for a debate made in response to a Business Question or statement.

Divisions

52. For the purpose of taking part in any division in the House or in Committee, it is sufficient for the relevant interest to be disclosed in the Register of Members' Interests. A Member should seek to ensure prior to a vote taking place that any relevant interest is registered, or, where it is not, should register the interest immediately after the vote.

3. The Advocacy Rule

The 1947 and 1995 Resolutions

53. On 6th November, 1995 the House agreed to the following Resolution relating to paid advocacy:—

"It is inconsistent with the dignity of the House, with the duty of a Member to his constituents, and with the maintenance of the privilege of freedom of speech, for any Member of this House to enter into any contractual agreement with an outside body,

⁸Select Committee on Members' Interests (Declaration), First Report. Session 1974-75. HC 102, paragraph 40 [quoting the Report of the Select Committee on Members' Interests (Declaration), Session 1969-70, HC 57].

controlling or limiting the Member's complete independence and freedom of action in Parliament or stipulating that he shall act in any way as the representative of such outside body in regard to any matters to be transacted in Parliament; the duty of a Member being to his constituents and to the country as a whole, rather than to any particular section thereof; and that in particular no Members of the House shall, in consideration of any remuneration, fee, payment, or reward or benefit in kind, direct or indirect, which the Member or any member of his or her family has received is receiving or expects to receive—

- (i) advocate or initiate any cause or matter on behalf of any outside body or individual, or
- (ii) urge any other Member of either House of Parliament, including Ministers, to do so.

by means of any speech, Question, Motion, introduction of a Bill or Amendment to a Motion or a Bill.”

(Resolution of the House of 15th July, 1947, amended on 6th November, 1995)

54. This Resolution prohibits paid advocacy. It is wholly incompatible with the advocacy rule that any Member should take payment for speaking in the House. Nor may a Member, for payment, vote, ask a Parliamentary Question, table a Motion, introduce a Bill or table or move an Amendment to a Motion or Bill or urge colleagues or Ministers to do so.⁹

55. The Resolution does not prevent a Member from holding a remunerated outside interest as a director, consultant, or adviser, or in any other capacity, whether or not such interests are related to membership of the House. Nor does it prevent a Member from being sponsored by a trade union or any other organisation, or holding any other registerable interest, or from receiving hospitality in the course of his or her parliamentary duties whether in the United Kingdom or abroad.¹⁰

56. The Resolution extends and reinforces an earlier Resolution of the House in 1947 that a Member may not enter into any contractual arrangement which fetters the Member's complete independence in Parliament by any undertaking to press some particular point of view on behalf of an outside interest.¹¹ Nor, by virtue of the same Resolution, may an outside body (or person) use any contractual arrangement with a member of Parliament as an instrument by which it controls, or seeks to control, his or her conduct in Parliament, or to punish that Member for any parliamentary action.¹²

57. In addition to the requirements of the advocacy rule, Member should also bear in mind the long established convention that interests

⁹The principal Resolutions of the House relating to advocacy are set out in the Appendix, at pages 38 and 39.

¹⁰Such interests must, of course, be registered or declared when appropriate (See Sections 1 and 2 above).

¹¹Committee of Privileges, Report, session 1946-47, HC 118, paragraphs 11 to 15.

¹²Committee of Privileges, Second Report, Session 1974-75, HC 634, paragraph 3.

which are wholly personal and particular to the Member, and which may arise from a profession or occupation outside the House, ought not to be pursued by the Member in proceedings in Parliament.

Guidelines on the application of the advocacy rule

58. If a financial interest is required to be registered in the Register of Members' Interests, or declared in debate, it falls within the scope of the advocacy rule. The Committee on Standards and Privileges has provided the following Guidelines to assist Members in applying the rule:

1. *Initiating a parliamentary proceeding:* When a Member has received, is receiving or expects to receive a pecuniary benefit from a body (or individual) outside Parliament the Member may not initiate any parliamentary proceeding which relates specifically and directly to the affairs and interests of that body (or individual); any client of such a body (or individual); any group, sector, category or organisation whose affairs and interests are substantially the same as those of the outside body (or individual).

[*Note:— "Initiating a parliamentary proceeding" includes:*

- *presenting a Bill;*
- *presenting a Petition;*
- *tabling and asking a Parliamentary Question;*
- *initiating, or seeking to initiate an adjournment (or other) debate;*
- *tabling or moving any Motion (e.g. an 'Early Day Motion' a Motion for leave to introduce a Bill under the 'Ten minute Rule' or a Motion "Blocking" a Private Bill.*
- *tabling or moving an Amendment to a Bill.*
- *proposing a draft Report, or moving an Amendment to a draft Report, in a Select Committee.*
- *giving any written notice, or adding a name to such notice, or making an application for and introducing a daily adjournment debate, or an emergency debate.]*

2. *Participation in debate & c.—* When making a speech or participating in any other parliamentary proceeding, advocacy is prohibited which seeks to confer benefit exclusively upon a body (or individual) outside Parliament, from which the Member has received, is receiving, or expects to receive a pecuniary benefit, or upon any registrable client of such a body (or individual). Otherwise a Member may speak freely on matters which specifically and directly relate to the affairs and interests of a body (or individual) from which he or she receives a pecuniary benefit, provided the benefit is properly registered and declared.

[*Note:— "Participation in a debate & c." includes:*

- *Making a speech in the House, in Committee of the whole House, or in Standing Committee;*
- *making an intervention in a debate or asking a supplementary question to a Question, statement or other proceeding;*

— *asking a question in a Select Committee when taking formal evidence.]*

3. **Constituency interests:** Irrespective of any relevant interest which the Member is required to register or declare, he or she may pursue any constituency interest in any proceeding of the House, except that:

- where the Member has financial relationship with a company in the Member's constituency the guidelines above relating to "initiation" and "participation" shall apply;
- where the Member is an adviser to a trade association, or to a professional (or other representative) body, the Member should avoid using a constituency interest as the means by which to raise a matter which relates primarily to the wider industrial, professional or other interest and which the Member would otherwise be unable to pursue.

59. The above Guidelines reflect the considerations of the Select Committee on Standards in Public Life when it drafted the terms of the Resolutions on advocacy. That Committee's opinion was that "any Member who is a paid Parliamentary adviser, or who receives any form of remuneration from any outside body, should not initiate proceedings... if they relate *specifically and directly to the affairs and interests of that body*".¹³ It also recommended that both the Committee on Standards and Privileges and the Commissioner, should, when considering any complaint, "have regard both to the *nature and directness* of the interest giving rise to any remuneration, and how far the relevant Parliamentary activity could be regarded as conferring, or seeking to confer, a *particular benefit* on the interest in question".¹⁴

60. The Select Committee emphasised that its intention was that "no limitation on Members' freedom of action which we recommend interferes with [Members'] ability to inform themselves on matters of public concern or with the performance of their paramount duty to represent the interests of their constituents and those of the public generally".¹⁵ Consequently, it envisaged that, while the advocacy rule would restrict a Member's ability to initiate proceedings, there would be fewer restrictions placed upon participation in debate, particularly once the House was operating within the framework of an agreed Code of Conduct on which advice would be available from the Parliamentary Commissioner and, if necessary, from the Committee on Standards and Privileges. In this context the Select Committee on Standards in Public Life quoted, with approval, the observation in the first Report of the Nolan Committee, that "there can be few cases where any damage to the public interest can result from a Member who has declared an interest speaking in the House, even in a Second Reading debate on a relevant Bill or in a Committee of the whole House."¹⁶

61. The Select Committee also expressed the belief that the House would expect the Parliamentary Commissioner and the Committee on Standards and Privileges to consider any individual speech against the

¹³Select Committee on Standards in Public Life, Second Report, Session 1994-95, HC 816, paragraph 27 (emphasis added).

¹⁴*Ibid.*, paragraph 20 (emphasis added).

¹⁵*Ibid.*

¹⁶*Ibid.*, paragraph 22 (and Cmnd 2850-I, paragraph 83).

criterion of whether it might bring *particular benefit* to the organisation or individual from which the Member received benefit.¹⁷ The Committee on Standards and Privileges considered that its predecessor's intentions would best be met if the scope for participation in debate was governed by the term "*exclusive benefit*" and this is the definition used in the Guidelines.

Parameters to the operation of the advocacy rule

62. The Committee on Standards and privileges has also agreed to the following parameters to the operation of the advocacy rule:—

- (1) *The advocacy rule and registrable interests*: The advocacy rule is to apply with equal effect to any registrable or declarable pecuniary benefit irrespective of the source of that benefit (*i.e.* no distinction is drawn between financial benefits received from a company, a representative organisation, a charity, a foreign government or any other source). Similarly, no distinction should be drawn in the application of the advocacy rule to different categories of registrable or declarable benefit¹⁸ (except for the provision below relating to ballot bills and to visits to an overseas dependency of the United Kingdom). Non-pecuniary interests registered by Members do not fall within the scope of the Resolution agreed by the House on 6th November 1995 and the advocacy rule does not apply to them.

- (2) *Past, present, and future benefits*: Unlike the Register, which lists current benefits, or benefits received in the immediate past, the Resolution on advocacy of 6th November 1995 also refers, as does the rule on declaration, to past and expected future benefits. It is difficult to contemplate circumstances where any benefit received some time in the past, particularly an interest which is not in the current printed Register, could be sufficiently relevant to be taken into account under the advocacy rule [see (4) below]. Expected future interests, on the other hand, may be more significant. For example, Members expecting to derive direct financial benefit from particular legislation should as well as declaring the interest in debate as appropriate, not seek to move Amendments relevant to the expected future interest. The same consideration applies to the initiation of other proceedings.

¹⁷*Ibid.*, paragraph 25 (emphasis added).

¹⁸*Ibid.*, paragraphs 33 and 34.

- (3) *Continuing benefits*: Continuing benefits, *i.e.* directorships, other employment and sponsorship, can be divested to release a Member with immediate effect from the restrictions imposed by the advocacy rule, providing that the benefit is disposed of and there is no expectation of renewal.
- (4) *“One-off” benefits*: From the publication of the 1997 edition of the Register which will include the date of registration, the advocacy rule will apply to “one-off” registrable benefits, both visits and gifts, from the day upon which the interest was acquired until one year after it is registered. Until then such benefits will be included in one published Register and the effects will continue for the lifetime of that Register. The rule does not apply to “one-off” benefits received, or visits undertaken before 15th November 1995.
- (5) *Family benefits*: The rule includes relevant payments to a Member’s family but any payment to a member of the family of any Member which arises out of the family member’s own occupation is not regarded as a benefit for the purposes of the Resolution.¹⁹
- (6) *Ballot Bills*: Private members successful in the Ballot for Bills are not prevented from introducing and proceeding with a Bill by reason of the fact that they receive free or subsidised assistance from an organisation connected with the purposes of the Bill provided the Member had no pre-existing financial relationship with the organisation which is registered, or is required to be registered.
- (7) *Visits to a United Kingdom dependency*: Although visits to a United Kingdom dependency at the expense of the Government of that territory must be registered and declared, such visits shall not be taken into account when applying the advocacy rule.

63. The financial interests of Members are extremely varied, as the Register demonstrates. Each Member will need to apply the advocacy rule and the Guidelines to his or her particular circumstances. When in doubt, Members will be able to seek the advice of the Commissioner, or the Committee on Standards and Privileges. However, some illustrative examples of the application of the Guidelines may be of value:—

- (a) A Member who is director of a company may not seek particular preference for that company (*e.g.* tax relief, subsidies, restriction

¹⁹ *Ibid.*, paragraph 37.

of competition) in any proceeding of the House. The Member may not initiate any proceeding which seeks particular preference for any sector or group of companies whose interests are substantially the same as those of the company in which the Member has a remunerated interest.

(b) In the case of trade associations, staff associations, professional bodies, charities (or any similar representative organisation):

(i) Membership alone of any representative organisation does not entail any restrictions under the advocacy rule.

(ii) A Member who is, for example, a remunerated adviser:

— may not, whether by initiating a proceeding or participating in debate, advocate measures for the exclusive benefit of that organisation; nor speak or act in support of a campaign exclusively for the benefit of the representative organisation or its membership (e.g. a campaign for special tax relief, or for enhanced pay and numbers);

— may participate in debate (but may not initiate any proceeding) in support of a campaign which is a particular interest to the representative organisation (e.g. in the case of an animal welfare organisation, a campaign to prohibit the importation of animal fur, or prohibit blood sports; in the case of a charity for cancer research, a campaign for the prohibition of smoking).

(c) When a Member has a problem involving a company within his or her constituency the Member may take any parliamentary action to resolve that problem, even though he or she may hold a remunerated position with a body representing the relevant sector of the industry regionally or nationally, or with another company outside the constituency in the same industrial sector. Similarly a Member who has a remunerated position with a representative association is not restricted in any way in taking up the case of a constituent who is a member of that association, or is employed by a member of that association. The only circumstances when the Member's actions are restricted are when the Member has a registrable interest with the company concerned when the guidelines provide that the Member forfeits the special position he or she has as a constituency Member.

(d) Members are reminded that when accepting foreign visits they should be mindful of the reputation of the House. However, the knowledge obtained by Members on such visits can often be of value to the House as a whole. While it is desirable that Members should be able to use that knowledge in debate in the House there is a point at which promoting the interests, of e.g. a

foreign Government from which hospitality has been received, crosses the line between informed comment and advocacy. Members may not, for example, either initiate or advocate in debate increased United Kingdom financial assistance to a Government from which they have recently received hospitality. Nor may the Member initiate any proceeding in Parliament which seeks to bring specific and direct benefit to the host Government. Subject to this constraint Members could, having declared their interest, raise matters relating to their experiences in the country either in a speech or by initiating any other proceeding. Similarly they could raise matters relating to the problems of the country generally, or make use of any local insight they have obtained into regional problems (e.g. the situation in the Middle East or in South East Asia, economic or social problems or an external threat) or information they have obtained on local developments of initiatives.

- (e) A Member whose visit was funded by a non-governmental organisation (NGO) or other agency would not be inhibited in initiating proceedings relating to its work unless the Member sought to raise matters which related specifically and directly to the affairs and interests of the NGO or agency itself, rather than the problems it was dealing with. In debate the Member could go even wider — only a matter which was for the exclusive benefit of the NGO or agency: e.g. a request for a grant-in-aid to the particular organisation — could not be pursued.
- (f) Under the advocacy rule, a Member who is receiving free office accommodation provided by a local authority should not advocate measures for the specific and direct benefit of the local authority itself (as distinct from the interests of those whom the local authority represents). In practice, since Members also have a paramount duty to represent their constituents there will be few occasions when the application of the rule will place a limit on a Member's parliamentary actions. In any event accommodation provided solely for the purpose of holding constituency surgeries is exempt from registration and therefore from the application of the advocacy rule.

Responsibility of the Member

64. In common with the rules of the House relating to registration and declaration of interest the main responsibility for observation of the rule on advocacy lies with the individual Member. The Select Committee on Standards in Public Life stated in its Second Report that "it is important to make clear that it will not be the function of the Chair to enforce the ban on paid advocacy during speeches, either by interrupting a Member thought to be contravening it, or by declining to call him. Complaints will

be a matter for the Commissioner to investigate in the first instance".²⁰ The Speaker has declined to receive points of order relating to registration or advocacy.

Delegations

"...a Member with a paid interest should not initiate or participate in, including attendance, a delegation where the problem affects only the body from which he has a paid interest."

(Part of a Resolution of the House of 6th November 1995)

65. A further Resolution agreed by the House on 6th November 1995 restricts the extent to which any Member with a paid interest may participate in, or accompany, a delegation to Ministers or public officials relating to that interest. A Member should not initiate, or participate in, or attend any such delegation where the problem to be addressed affects only the body with which the Member has a relevant interest, except when that problem relates primarily to a constituency matter.

4. Procedure for Complaints

66. Complaints, whether from Members or from members of the public, alleging that the conduct of a Member is incompatible with the Code of Conduct or with this Guide, should be addressed in writing to the Parliamentary Commissioner for Standards.

67. Both the Commissioner and the Committee on Standards and Privileges will be guided by the view of the former Select Committee on Members' Interests that "it is not sufficient to make an unsubstantiated allegation and except the Committee to assemble the supporting evidence", and that it "would not normally regard a complaints founded upon no more than a newspaper story or television report as a substantiated allegation".²² The Commissioner will not entertain anonymous complaints.

68. Communications between a member of the public and the Commissioner are not covered by Parliamentary privilege nor privileged at law unless and until the Commissioner decides the case has some substance to merit further inquiry. If he decides to the contrary, he may at his discretion reject the complaint without further reference to the Committee. The receipt of a complaint by the Commissioner is not to be interpreted as an indication that a *prima facie* case has been established.

69. If the Commissioner is satisfied that sufficient evidence has been tendered in support of the complaint to justify his taking the matter further, he will ask the Member to respond to the complaint and will then

²⁰Select Committee on Standards in Public Life, Second Report, Session 1994-95, HC 816, paragraph 26.

²¹E.g. HC Deb. 25th April 1996, col 605 and 14th May 1996, cols. 767-68.

²²Select Committee on Members' Interests, First Report, Session 1992-93, HC 383, paragraph 4.

conduct a preliminary investigation. If he decides, after some inquiry, that there is no *prima facie* case, he will report that conclusion briefly to the Select Committee. If he finds that there is a *prima facie* case or that the complaint raises issues of wider importance, he will report the facts and his conclusions to the Committee.

70. The Committee on Standards and Privileges will consider any matter relating to the conduct of Members, including specific complaints in relation to alleged breaches of the Code of Conduct or Guide to which the House has agreed and which have been drawn to the Committee's attention by the Commissioner.

71. The Committee has power under its Standing Order to send for persons, papers and records; to order the attendance of any Member before it; and to require that specific documents in the possession of a Member relating to its inquiries or to the inquiries of the Commissioner be laid before it.

72. While it is the practice of the Committee to deliberate in private, the Committee determines for itself whether sessions at which evidence is to be taken shall be held publicly or in private, and is empowered to refuse leave for the broadcasting of any public sessions.

73. On specific complaints for which the Commissioner has decided there is a *prima facie* case, the Committee will make recommendations to the House on whether further action is required. It may also report to the House on other complaints if it thinks fit.

APPENDIX VI

[See para 3.11 of the Report]

REGISTER OF MEMBERS' INTERESTS

**[HOUSE OF REPRESENTATIVES THE PARLIAMENT OF THE
COMMONWEALTH OF AUSTRALIA]**

STATEMENT OF REGISTRABLE INTERESTS

At dissolution / At date of election
(delete whichever not applicable)

Notes:

- (1) It is suggested that the accompanying Explanatory Notes be read before the return is completed.
- (2) The information which you are required to provide is contained in resolutions agreed to by the House of Representatives on 9 October 1984, a.m. as amended on 21 March 1985, 13 February 1986, 22 October 1986, 30 November 1988 and 9 November 1994. It consists of the Member's registrable interests and the registrable interests of which the Member is aware (a) of the Member's spouse and (b) of any children who are wholly or mainly dependent on the Member for support. For the definition of "dependent children" see the introduction to the Explanatory Notes.
- (3) If there is insufficient space on this form for the information you are required to provide, you may attach additional papers for that purpose. Each paper attached to this form should be signed personally by you and dated.

Surname Other Names

Electoral Division State

1. SHAREHOLDINGS IN PUBLIC AND PRIVATE COMPANES (INCLUDING HOLDING COMPANIES) INDICATING THE NAME OF THE COMPANY OR COMPANIES

	Name of Company-(Including holding and subsidiary companies if applicable)
Self	
Spouse	
Dependent Children	

2. FAMILY AND BUSINESS TRUSTS AND NOMINEE COMPANIES—

(i) in which a beneficial interest is held, indicating the name of the trust, the nature of its operation and beneficial interest

	Name of Trust/nominee company	Nature of its operation	Beneficial interest
Self			
Spouse			
Dependent Children			

(ii) in which the Member, the Member's spouse, or a child who is wholly or mainly dependent on the Member for support, is trustee (but not including a trustee of an estate where no beneficial interest is held by the Member, the Member's spouse or dependent children), indicating the name of the trust, the nature of its operation and the beneficiary of the trust

	Name of Trust/nominee company	Nature of its operation	Beneficial interest
Self			
Spouse			
Dependent Children			

3. REAL ESTATE, INCLUDING THE LOCATION (SUBURB OR AREA ONLY) AND THE PURPOSE FOR WHICH IT IS OWNED

	Location	Purpose for which owned
Self		
Spouse		
Dependent Children		

4. REGISTERED DIRECTORSHIPS OF COMPANIES

	Name of company	Activities of company
Self		
Spouse		
Dependent Children		

5. PARTNERSHIPS INDICATING THE NATURE OF THE INTERESTS AND THE ACTIVITIES OF THE PARTNERSHIP

	Name	Nature of interests	Activities of Partnership
Self			
Spouse			
Dependent Children			

6. LIABILITIES INDICATING THE NATURE OF THE LIABILITY AND THE CREDITOR CONCERNED

	Nature of liability	Creditor
Self		
Spouse		
Dependent Children		

7. THE NATURE OF ANY BONDS, DEBENTURES AND LIKE INVESTMENTS

	Type of investment	Body in which investment is held
Self		
Spouse		
Dependent Children		

8. SAVING OR INVESTMENT ACCOUNTS, INDICATING THEIR NATURE AND THE NAME OF THE BANK OR OTHER INSTITUTIONS CONCERNED

	Nature of account	Name of bank/institution
Self		
Spouse		
Dependent Children		

9. THE NATURE OF ANY OTHER ASSETS (EXCLUDING HOUSEHOLD AND PERSONAL EFFECTS) EACH VALUED AT OVER \$5000

	Nature of any other assets
Self	
Spouse	
Dependent Children	

10. THE NATURE OF ANY OTHER SUBSTANTIAL SOURCES OF INCOME

	Nature of income
Self	
Spouse	
Dependent Children	

11. GIFTS, VALUED AT MORE THAN \$5000 RECEIVED FROM OFFICIAL SOURCES, OR AT MORE THAN \$200 WHERE RECEIVED FROM OTHER THAN OFFICIAL SOURCES PROVIDED THAT A GIFT RECEIVED BY A MEMBER, THE MEMBER'S SPOUSE OR DEPENDENT CHILDREN FROM FAMILY MEMBERS OR PERSONAL FRIENDS IN A PURELY PERSONAL CAPACITY NEED NOT BE REGISTERED UNLESS THE MEMBER JUDGES THAT AN APPEARANCE OF CONFLICT OF INTEREST MAY BE SEEN TO EXIST

	Details of gifts
Self	
Spouse	
Dependent Children	

12. ANY SPONSORED TRAVEL OR HOSPITALITY RECEIVED

	Details of travel/hospitality
Self	
Spouse	
Dependent Children	

13. MEMBERSHIP OF ANY ORGANISATION WHERE A CONFLICT OF INTEREST WITH A MEMBER'S PUBLIC DUTIES COULD FORESEEABLY ARISE OR BE SEEN TO ARISE

	Name of organisation
Self	
Spouse	
Dependent Children	

14. ANY OTHER INTERESTS WHERE A CONFLICT OF INTEREST WITH A MEMBER'S PUBLIC DUTIES COULD FORESEEABLY ARISE OR BE SEEN TO ARISE

	Nature of interest
Self	
Spouse	
Dependent Children	

Signature Date

HOUSE OF REPRESENTATIVES

REGISTER OF MEMBERS' INTERESTS

NOTIFICATION OF ALTERATION(S) OF INTERESTS

Since dissolution/Since date of election
(delete whichever not applicable)

Name:

Electorate:

The following alteration(s) of interests have occurred since the date of dissolution of the House of Representatives/the date of my election *(delete whichever not applicable)*:

ADDITION

Item	Details
-------------	----------------

DELETION

Item	Details
-------------	----------------

Signature **Date**

APPENDIX VII

[See para 3.14 of the Report]

COMMONWEALTH PARLIAMENT OF AUSTRALIA

[DRAFT PROPOSED BY WORKING GROUP]

A FRAMEWORK OF ETHICAL PRINCIPLES FOR MEMBERS AND SENATORS

The principles which follow are intended to provide a framework of reference for Members and Senators in the discharge of their responsibilities. They outline the minimum standards of behaviour which the Australian people have a right to expect of their elected representatives. They incorporate some relevant ethical standards which should guide the considerations of Members of Parliament, and which should be a continuing reference point for former Members.

It is by adherence to such principles that Members of Parliament can maintain and strengthen the public's trust and confidence in the integrity of the Parliamentary institution and uphold the dignity of public office.

This framework does not seek to anticipate circumstances or to prescribe behaviour in hypothetical cases. While terms such as "the public interest" or "just cause" are not capable of definition in the abstract, over time, each House will develop a body of interpretation and clarification which has regard to individual cases and contemporary values.

Each House of the Parliament will consider matters which are raised by Members and Senators under the framework and a majority of two thirds of Members of a House will be necessary to resolve a matter.

THE PRINCIPLES

1. Loyalty to the Nation and Regard for its Laws

Members and Senators must be loyal to Australia and its people. They must uphold the laws of Australia and ensure that their conduct does not, without just cause as an exercise of freedom of conscience, breach or evade those laws.

2. Diligence and Economy

Members and Senators must exercise due diligence, and in performing their official duties to the best of their ability, apply public resources economically and only for the purposes for which they are intended.

3. Respect for the Dignity and Privacy of Others

Members and Senators must have due regard for the rights and obligations of all Australians. They must respect the privacy of others and avoid unjustifiable or illegal discrimination. They must safeguard information obtained in confidence in the course of their duties and exercise responsibly their rights and privileges as Members and Senators.

4. Integrity

Members and Senators must at all times act honestly, strive to maintain the public trust placed in them, and advance the common good of the people of Australia.

5. Primacy of the Public Interest

Members and Senators must base their conduct on a consideration of the public interest, avoid conflict between personal interest and the requirements of public duty, and resolve any conflict, real or apparent, quickly and in favour of the public interest.

6. Proper Exercise of Influence

Members and Senators must exercise the influence gained from their public office only to advance the public interest. They must not obtain improperly any property or benefit, whether for themselves or another, or affect improperly any process undertaken by officials or members of the public.

7. Personal Conduct

Members and Senators must ensure that their personal conduct is consistent with the dignity and integrity of the Parliament.

8. Additional Responsibilities of Parliamentary Office Holders

Members and Senators who hold a Parliamentary office have a duty to exercise their additional responsibilities with strict adherence to these principles. They must have particular regard for the proper exercise of influence and the use of information gained from their duties as Parliamentary office holders. They must also be accountable for their administrative actions and for their conduct insofar as it affects their public duties.

ADDITIONAL GUIDANCE

In individually considering these principles, Members and Senators should also have regard to:—

section 44 and 45 of the Constitution;

provisions of the *Parliamentary Entitlements Act 1990*;

standing and sessional orders of the House of Parliament of which they are members;

resolutions of continuing effect of the House of the Parliament of which they are members.

decisions and determinations of the relevant Presiding Officer and the appropriate Minister concerning the obligations and entitlements of Members and Senators;

determinations of the Remunerations Tribunal; and

section 73A of the *Crimes Act 1914*.

Interpretation

In this Framework, the term Parliamentary office holder includes Leaders of Parties, Shadow Ministers and Shadow Parliamentary Secretaries, Party Whips, Deputy President of the Senate and Chairman of Committees, Deputy Speaker, Second Deputy Speaker and Chairs of Parliamentary Committees.

APPENDIX VIII

[See Para 3.14 of the Report]

COMMONWEALTH PARLIAMENT OF AUSTRALIA

[DRAFT PROPOSED BY WORKING GROUP]

A FRAMEWORK OF ETHICAL PRINCIPLES FOR MINISTERS AND PRESIDING OFFICERS

All Members of the Commonwealth Parliament are obliged to meet a number of ethical and administrative requirements in respect of their behaviour and personal interests. A fundamental obligation in respect of ethical behaviour is to comply with the Framework of Ethical Principles for Members and Senators. In respect of the pecuniary interests of Ministers and public office holders, the Code of Conduct on Public Duty and Private Interest recommended by the Bowen Committee is accepted as the model for general application. Declarations of interest, dealing with lobbyists, hospitality, benefits and gifts are the subject of procedures laid down by successive Governments. Guidance to Ministers on administrative procedures and requirements pertaining to Cabinet is provided in the *Cabinet Handbook*.

The Prime Minister enunciates standards and determines the penalty for any failings of Ministers, but it is to Parliament and, through it, the people, that Ministers and the Presiding Officers are accountable. Ministers and the Presiding Officers are responsible for the competence with which they handle their public duties, the relevant actions of their personal staff and their departments, and their personal conduct insofar as it affects their public role.

Because of the greater trust placed in them, and the power and discretion they exercise in the performance of their duties, Ministers and the Presiding Officers must also conform to a set of ethical standards more stringent than those required of Members and Senators. The principles which follow are intended to provide a framework of reference for Ministers and the Presiding Officers. This supplements the Framework of Ethical Principles for Members and Senators and the provisions of the Standing Orders of both Houses. For the purposes of this framework, "Ministers" includes Parliamentary Secretaries, and "Presiding Officers" means the Speaker of the House of Representatives and the President of the Senate.

Subject to action taken by the Prime Minister and Cabinet, each House of the Parliament may consider matters raised by Members and Senators under this Framework and a majority of two thirds of members of a House will be necessary to resolve a matter.

THE PRINCIPLES

1. Impartiality

In the performance of their public duties Ministers and the Presiding Officers must act impartially, uninfluenced by fear or favour.

2. Honesty

Ministers and the Presiding Officers must be frank and honest in their public dealings and in particular must not mislead intentionally the Parliament or the public. Any misconception caused inadvertently by a Minister or Presiding Officer must be corrected at the earliest opportunity.

3. Use of Influence

Ministers and the Presiding Officers must not exercise the influence obtained from their public office to further their personal interests, obtain any improper advantage or benefit for themselves or another, or any promise of future advantage.

4. Gifts, Benefits and Hospitality

Ministers and the Presiding Officers may accept gifts, benefits or hospitality offered in connection with their public office only if in doing so they conform and report in accordance with applicable procedures enunciated publicly by Parliament, the Prime Ministers, or relevant Commonwealth Departments.

5. Public Property and Services

Ministers and the Presiding Officers must ensure that their use of public property and services is in accordance with the entitlements of their public officer, and that the same standards are maintained by those under their authority who use public property and services.

6. Official Information

Ministers and the Presiding Officers must not use official information for personal gain.

7. Administrative Accountability

In the Performance of their duties, Ministers and the Presiding Officers must:

—be accountable to Parliament and to the public;

- have proper regard to advice and guidance offered by their departments;
- apportion discretionary funds on established principles and on the basis of legitimate public purposes; and
- Document and substantiate adequately their decisions.

8. Compliance by Staff

Ministers and the Presiding Officers must ensure that the actions of members of their staff are consistent with these principles.

9. Continuing Obligation

Ministers and the Presiding Officers must ensure that their actions after leaving public office are consistent with these principles. In particular they must not seek or appear to seek improper advantage from any influence they may retain with their former colleagues or public officials.

APPENDIX IX

[See Para 4.15 of the Report]

CODE OF CONDUCT FOR LEGISLATORS

Prepared by the Secretariat and included in a paper entitled 'Discipline and Decorum in Parliament and State Legislatures' for reference and use of delegates at the two-day All India Conference of Presiding Officers and other parliamentarians of the Legislative Bodies of India in New Delhi on 23 & 24 September, 1992.



CODE OF CONDUCT FOR LEGISLATORS

CHAPTER I

Introduction and Definition

In order to maintain the highest traditions in parliamentary life, members of Parliament are expected to observe a certain standard of conduct both inside the House as well as outside it. Their behaviour should be such as to enhance the dignity of Parliament and its members in general. The conduct of members should not be contrary to the usage or derogatory to the dignity of the House or in any way inconsistent with the standards which Parliament is entitled to expect of its members.

The extent and amplitude of the words "conduct of a member" cannot be defined exhaustively. It is within the powers of the House in each case to determine whether a member has acted in an unbecoming manner or has acted in a manner unworthy of a member of Parliament. Thus, even though the facts of a particular case do not come within any of the recognized heads of breach of privilege or contempt of the House the conduct of a member may be considered by the House as unbecoming and derogatory to the dignity of the House.

In 1951 an ad-hoc Committee of the House was appointed by the Provisional Parliament to investigate the conduct and activities of a member (Shri H.G. Mudgal) in connection with some of his dealings with a business association which included canvassing support and making propaganda in Parliament on certain problems on behalf of that association in return for alleged financial and other business advantages. The Committee was directed by the House to consider whether the conduct of the member concerned was derogatory to the dignity of the House and inconsistent with the standards which Parliament is entitled to expect from members. The Report of the Committee was presented to the House on 11 August, 1951. The Committee found the member guilty of receiving monetary benefit for putting of questions in Parliament, moving amendments to the Forward Contracts (Regulation) Bill and arranging interviews with Ministers, etc. In its Report the Committee held that the conduct of H.G. Mudgal was derogatory to the dignity of the House and inconsistent with the standards which Parliament was entitled to expect of its members.

The report was then considered by the House on a motion moved by the Prime Minister on 24 September, 1951. The Committee had recommended the expulsion of the member from the House. The member after participating in the debate submitted his resignation from the membership of the House. In a resolution the House accepted the findings of the

Committee and deprecated the attempt of the member to circumvent the effects of the motion expelling him from the House by his resignation which constituted a contempt of the House and aggravated his offence.

A separate note was submitted by one of the members of the Committee (Smt. G. Durgabai) which was appended to the Report of the Committee. Smt. Durgabai suggested in her note certain rules of conduct for legislators which were in conformity with standards set up in UK and USA.

In 1963, five members of Parliament created disorder at the time of President's Address under article 87 of the Constitution to both the Houses of Parliament assembled together. On 19 February, 1963, the Speaker, Lok Sabha nominated a Committee to investigate the conduct of the said five members at the time of the President's Address. The Committee, in their Report presented to the House on 12 March, 1963 laid down certain norms of conduct for members at the time of the President's Address. The Committee recommended that three members be reprimanded for their undesirable, undignified and unbecoming conduct during the President's Address and for aggravating their offence by their evidence before the Committee. The Committee felt that the ends of justice would be adequately met by expressing disapproval of the conduct of the remaining two members. The Committee also recommended that in future for any disorderly conduct during the President's Address committed by a member he may be suspended from the service of the House for a period which may extend upto one year. The three members were later on reprimanded by the Speaker as recommended by the Committee.

In 1971, when the President started reading his Address under article 87 of the Constitution to both the Houses of Parliament assembled together, a member of Lok Sabha interrupted him and created disorder. A Committee was nominated by the Speaker to go into the matter in all details in pursuance of a motion adopted by the House on 2 April, 1971. The Committee in their First Report presented to the House on 15 November, 1971 were of the view that conduct of the member concerned during the President's Address was improper and inconsistent with the dignity of the occasion and the standards of conduct which the House expect from its members. In view of the explanation given by the member, the Committee recommended that a lenient view may be taken and the matter may be dropped. The Committee in their Second Report presented to the House on 14 April, 1972 formulated certain guidelines for the conduct of members and maintenance of order, dignity and decorum on the occasion of President's Address to the House(s) of Parliament under articles 86 or 87 of the Constitution.

On the basis of the recommendations made by the Committees in their Reports referred to above and on the basis of well established parliamentary practice certain rules of conduct, norms of behaviour and conventions have developed over the years which can be loosely termed as

the code of conduct for legislators for their functioning in the House in Parliamentary Committees, during tours of Parliamentary Committees, during President's Address to both Houses of Parliament, their functioning outside the House, etc.

CHAPTER II

Code of Conduct for Legislators inside the Legislature

General Rules of Etiquette

Whilst the House is sitting a member—

- (i) shall not read any book, newspaper or letter except in connection with the business of the House;
- (ii) shall not interrupt any member while speaking by disorderly expression or noises or in any other disorderly manner;
- (iii) shall bow to the Chair while entering or leaving the House and also when taking or leaving the seat;
- (iv) shall not pass between the Chair and any member who is speaking;
- (v) shall not leave the House when the Speaker is addressing the House;
- (vi) shall always address the Chair;
- (vii) shall keep to his usual seat while addressing the House;
- (viii) shall maintain silence when not speaking in the House;
- (ix) shall not obstruct proceedings, or interrupt and shall avoid making running commentaries when another member is speaking;
- (x) shall not applaud when a stranger enters any of the Galleries, or the Special Box;
- (xi) shall not shout slogans in the House;
- (xii) shall not sit or stand with his back towards the Chair;
- (xiii) shall not approach the Chair personally in the House. He may send chits to the officers at the Table, if necessary;
- (xiv) shall not wear or display badges of any kind in the House;
- (xv) shall not bring or display arms in the House;
- (xvi) shall not display flags, emblems of any exhibits in the House;
- (xvii) shall not leave the House immediately after delivering his speech;
- (xviii) shall not distribute within the precincts of Parliament House any literature, questionnaire, pamphlets, press notes, leaflets etc. not connected with the business of the House;
- (xix) shall not place his hat/cap on the desk in the House, bring boards in the Chamber for keeping files or for writing purposes, smoke or enter the House with his coat hanging on the arms;
- (xx) shall not carry walking stick into the House unless permitted by the Speaker on health grounds;
- (xxi) shall not tear off documents in the House in protest;
- (xxii) shall not bring or play cassette or tape recorder in the House;
- (xxiii) shall avoid talking or laughing in Lobby loud enough to be heard in the House; and
- (xxiv) shall not sit on *Satyagrah* and *Dharna* inside the House and in front of the House.

Rules to be observed while speaking

A member while speaking shall not—

- (i) refer to any matter of fact on which a judicial decision is pending;
- (ii) make personal reference by way of making an allegation imputing a motive to or questioning the *bona fides* of any other member of the House unless it be imperatively necessary for the purpose of the debate being itself a matter in issue or relevant thereto;
- (iii) use offensive expressions about the conduct of proceedings of Parliament or any State Legislature;
- (iv) reflect on any determination of the House except on a motion for rescinding it;
- (v) reflect upon the conduct of persons in high authority unless the discussion is based on a substantive motion drawn in proper terms;
- (vi) use the President's name for the purpose of influencing the debate;
- (vii) utter treasonable, seditious or defamatory words;
- (viii) use his right of speech for the purpose of obstructing the business of the House;
- (ix) make any reference to the strangers in any of the galleries;
- (x) refer to Government officials by name; and
- (xi) read a written speech except with the previous permission of the Chair.

CHAPTER III

Code of Conduct for Legislatures during the sittings of Parliamentary Committees and their study tours

During the sittings of Committees

During the sittings of Parliamentary Committees, members are required to observe the following code of conduct:

- (i) Where a member of a Committee has a personal pecuniary or direct interest in any matter which is to be considered by the Committee, he shall state his interest therein to the Speaker through the Chairman of the Committee.
- (ii) The proceedings of a Committee shall be treated as confidential and it shall not be permissible for a member of the Committee or any one who has access to its proceedings to communicate directly or indirectly to the press any information regarding its proceedings including its report or any conclusions arrived at, finally or tentatively, before the report has been presented to the House.
- (iii) The evidence given before a Committee shall not be published by any member of the Committee or by any other person until it has been laid on the Table.

During the study tours of Parliamentary Committees

During the study tours of Parliamentary Committees, members are required to observe the following code of conduct:

- (i) Intermediate journeys should be avoided during the tours.
- (ii) When transport is provided by Government/Undertakings during the tours of the Committee, such transport should be used for Committee work and not by individual members for distant private visits.
- (iii) During tours, members should take particular care to maintain proper dignity and decorum so that no criticism is made of the Committee in any manner.
- (iv) During the tour, if a member falls ill and the doctor advises him not to undertake further tour, he should follow the doctor's advice.
- (v) No member should give press statements regarding Committee proceedings to press. Whenever any briefing of

the press is required to be done, the same should be done by the Chairman of the Committee.

- (vi) The members should not accept any costly gifts during the tour. Inexpensive mementos connected with the organisation visited could however be accepted.
- (vii) The Committee or Sub-Committee or Study Group, while on tour, should not accept any invitation for lunch or dinner or other hospitality that might be extended by any private party. At the official lunches or dinners. If any, that might be accepted by the Committee or Sub-Committee or Study Group, no liquor should be allowed to be served.
- (viii) No member should take any other person during the official tours. An attendant or member's spouse may accompany a member on medical grounds with the prior permission of the Speaker. In such cases, the member will bear all expenses including hotel charges in respect of his/her spouse or attendant. In case a member is found having any accompanying person without prior permission, he/she would not only bear all the expenses of such a person but would also stand automatically debarred from undertaking any Committee tour thereafter.
- (ix) The spouse or attendant of a member should in no case, accompany Committee members during official study visit to any installation, undertaking, office or establishment and during informal discussions with officers of the concerned establishment, undertaking, etc.

CHAPTER IV

Code of Conduct during Delegations to Foreign Countries

Members of a delegation to foreign countries are required not to give any press interview or statement; only the leaders of the delegations are authorised to make press statements or interviews.

CHAPTER V

Code of Conduct for Legislators during President's Address

- (i) When the President addresses either House of Parliament or both Houses of Parliament assembled together under article 86 or article 87 of the Constitution, he delivers his Address in his capacity as the head of the State and as part of Parliament and in pursuance of his constitutional duty. It is as much a constitutional obligation on the part of the members to listen to the President's Address with solemnity, dignity and decorum as it is on the part of the President to address Members of Parliament. Therefore, observance of solemnity, dignity and decorum by each and every member or any other person present on the occasion of the President's Address is of utmost importance.
- (ii) Any action on the part of a member or any other person which mars in any form or manner the dignity or solemnity of the occasion of the President's Address or creates disturbances shall be tantamount to an act of discourtesy and disrespect to the President as well as contempt of the House.
- (iii) When members of either House or of both Houses assemble under article 86 or article 87 of the Constitution, they do so for the specific and only purpose of listening to the President's Address. This occasion is neither a sitting of their House nor a joint sitting of the two Houses. No business or proceeding other than the President's Address is permissible under either of these two articles. Therefore, any interruption, point of order, speech, demonstration or walk-out etc. by any member or other person on that occasion, is contrary to the provisions of the Constitution.
- (iv) No member shall, therefore, interrupt or obstruct the President's Address by any point of order, debate, discussion or in any other manner or otherwise mar the dignity of the occasion by walk-out or by any disorderly conduct or in any other manner, either before or during or after the Address, while the President is in the Hall.
- (v) The President is in charge of the proceedings and fully competent to preserve order on the occasion of his Address. If any member or other person interrupts or obstructs the President's Address or mars the dignity of the occasion in any other manner, the President may give such directions as he may consider necessary to preserve order, solemnity and dignity of the occasion.

- (vi) If any member or other person interrupts or obstructs the President's Address to either House of Parliament or both Houses of Parliament assembled together, either before or during or after the Address, while the President is in the Hall, with any speech or point of order or walk-out or in any other manner, such interruption, obstruction or show of disrespect may be considered as a grossly disorderly conduct on the part of the concerned member or other person and a contempt of the House which may be dealt with by the House subsequently on a motion moved by a member.

CHAPTER VI

Code of Conduct of Legislators outside the Legislature

- (i) Information given to members in confidence or by virtue of their being members of Committees of Parliament should not be divulged to anyone nor used by them directly or indirectly in the profession in which they are engaged, such as in their capacity as editors or correspondents of newspapers or proprietors of business firms and so on.
- (ii) A member should not try to secure business from Government for a firm, company or organisation with which he is directly or indirectly concerned.
- (iii) A member should not give certificates which are not based on facts.
- (iv) A member should not make profit out of Government residence allotted to him by sub-letting the premises.
- (v) A member should not unduly influence the Government officials or the Ministers in a case in which he is interested financially either directly or indirectly.
- (vi) A member should not receive hospitality of any kind for any work that he desires or proposes to do from a person or organisation on whose behalf the work is to be done by him.
- (vii) A member should not in his capacity as a lawyer or a legal adviser or a counsel or a solicitor appear before a Minister or an executive officer exercising quasi-judicial powers.
- (viii) A member should not proceed to take action on behalf of his constituents on some insufficient or baseless facts.
- (ix) A member should not permit himself to be used as a ready supporter of anybody's grievances or complaints.
- (x) A member should not endorse incorrect certificates on bills claiming amounts due to him.
- (xi) A member should not elicit information from Government in an unauthorised manner by inducing a subordinate to give information which in the course of his normal functions he should not do. Nor encourage any such person to speak to him against his senior officials on matters of public importance and policy.

- (xii) A member should not write recommendatory letters or speak to Government officials for employment or business contacts for any of his relations or other persons in whom he is directly or indirectly interested.

CHAPTER VII

Punishment for Breach of Code of Conduct

The House has the right to punish its members for their misconduct. It exercises its jurisdiction of scrutiny over its members for their conduct whether it takes place inside or outside the House. It has also the power to punish its members for disorderly conduct and other contempts, whether committed within the House or beyond its walls.

In the case of misconduct or contempts committed by its members, the House can impose these punishments; admonition, reprimand, withdrawal from the House, suspension from the service of the House, imprisonment, and expulsion from the House.

APPENDIX X

[See para 4.22 of the Report]

Resolution of the symposium of Presiding Officers of legislative bodies in India on "need for Constitution of ethics Committees in Legislatures" Shimla, 23rd october, 1997.

The Presiding Officers of the legislative bodies in India having met in a symposium at Shimla on the 23rd of October, 1997 deliberated on the need for constitution of Ethics Committes in Legislatures The symposium took note of the special presentation on the subject by the Ethics Group of the privileges Committee of the Lok Sabha, the broad details of which are: there is a justification for establishing ethics committees in the context of the growing political consciousness of the people, changing public perceptions about legislators, trends of criminalisation of politics, fall in standards of probity in public life, etc; there could be "privileges and ethics committees" ethics aspect being separately handled by a sub-committee, membership for the committee could be determined by the Presiding Officers autonomously without going through political parties, complaints could be presented to the Committee through the Speaker, investigations on complaints being conducted in-camera, onus of proof of allegations could lie on the complainants; the Committee could decide on the penalties if any to be imposed finally by the House and the interface between the Lokpal and the Committee should be appropriately spelt out.

Based on this presentation by the Ethics Group of the Privileges Committee of the Lok Sabha and taking into account the views on the subject expressed by the Presiding Officers and legislators, the Symposium calls upon the State legislative bodies to establish ethics committees. However, they may, before the establishment of the committees, await the decision of the Lok Sabha in regard to the framework and functions of the ethics committee which it proposes to establish and they may further take into consideration further developments in respect of the functioning of the ethics committee already established by the Rajya Sabha.