

CORRECTED VERSION

LAW REFORM COMMITTEE

Inquiry into review of the Members of Parliament (Register of Interests) Act

Melbourne — 21 July 2009

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Mr B. Donohoe, state political reporter, Seven Network.

The CHAIR — Welcome everybody, and welcome Brendan Donohoe. Thank you very much for coming to join us this morning. You are probably familiar with the way these committees operate and you know that we operate under the Parliamentary Committees Act, which affords you parliamentary privilege within the confines of the discussion here, but maybe if some remarks that you make here are made outside the precincts of this hearing, you will not be afforded protection. Hansard will be recording the discussion, and you will be afforded the opportunity later, when you receive a transcript, to make any minor changes just to clarify any remarks that you have made. That is all the preliminaries.

We have got up to 45 minutes. We do not need to use all that time, but we have that time allocated. Thank you very much for your submission, which we have read. It is the only one that we have received from the media, and it is important that we say a special thank you for that. We are giving you time maybe to set up and to talk about some of the matters you want to raise with this, and then we will open it up for a general discussion.

Mr DONOHOE — Firstly, thanks for the opportunity to make a submission. As soon as I got the email I rather quickly put together a submission, because I do have these documents on my desk for constant reference. It has been a bit of a hobbyhorse of mine over the years, how the act works or does not work, and how MPs, particularly new MPs, perceive the act and how they react to it.

Just by way of background and for the record, I am a state political journalist. I came up to state Parliament in 1980 under Dick Hamer and Lindsay Thompson. I went up to trades hall for about five years and returned in 1988 for the election and have been here ever since. I am the longest serving state political reporter. I am not too sure about Victorian history — I will have to check that — because Dan Webb was up here for a long time, and I do not think I have beaten him.

I have done almost 20 years at Channel 7 — 20 years next year, so over the years I have been in a unique position to view the act and I have reported on the act, although I must admit it is not a great running issue. There have not been enormous crises or enormous stories around the act because the majority of MPs do the right thing behind the scenes, although I notice a drift in behaviour in terms of reporting in recent years.

Just to go quickly through what I have said, it is the bedrock of democracy, which is recognised in the fact sheet of state Parliament, that the primary responsibility of members of Parliament is to act in the public interest and that if a member has a pecuniary interest, it is possible they may be influenced by it. Potentially a member could act to promote their own private interests rather than the public good. The only way to test that is if there is a true and correct register so you can test whether the private interests of the members in any way conflict or lead to a perception of conflict about their behaviour.

I say here that, put simply, the register fails the test of being a true register, and that is because many MPs pay lip-service to the letter, the spirit and the intent of the law. The most glaring example of that in my belief is where they are asked to provide the addresses or description of the land under section 6(2)(f). A number of MPs over the years started by providing the full street number, the street name and the suburb and even a description such as ‘family home’, ‘investment property’, ‘half owned with my brother or sister’, that sort of thing, to where we now have a situation where even in the latest summary variations Richard Dalla-Riva has moved from saying ‘Brayford Nook, Craigieburn’ to ‘property, Craigieburn’.

If someone was to come along and do a test on Richard Dalla-Riva’s property holdings, they would have to go and do another search somewhere else to find out the street name and then try to nail it down to the number in the street. That is becoming a bigger issue particularly as the planning minister has said that in a number of areas on Melbourne’s suburban fringe, properties are increasing tenfold. That is one example of what is going on.

There have been some rather extreme examples over the years. Evan Thornley, as I have pointed out here, says ‘investment property, New South Wales’. I do not think he was trying to say he owned New South Wales or that ‘investment property, Queensland’ meant that he owned the whole of Queensland. That means nothing. As we all know, New South Wales and Queensland are very big places, and it is just basically saying ‘I’ve got property, but I’m not going to tell you where it is or what it is’.

He also had another investment property in East Melbourne, two investment properties in Kew, an ‘investment property, New South Wales’, an ‘investment property, Queensland’, a ‘residential property, Kew’ and a ‘farm,

western Victoria'. All of those could have impacted on ALP policy, him being the secretary to the Premier at the time and liaising with interstate ALP branches and interstate Labor governments. That could not be tested.

I do not know to this day whether he owned half of New South Wales or property along the border that was affected by water rights or anything at all. If it cannot be tested, it leaves doubt in the public's mind, or in a journalist's mind, at the very least, who has to report on these things and be the conduit, about whether there is any perception or actual conflict of interest.

I gave David Hodgett as an example of someone who I believe is doing the right thing, and there are numerous other examples: Jenny Lindell — I have just looked at her situation, she even has her residential address. I will get to that later, because I do have a bit of a view about residential addresses and whether they have to be treated exactly the same. David Hodgett, for example, has 10 land beneficial interest registrations, I will call them, and he goes right down to 'unit 8', the exact details of where they are. So with the three in Mooroolbark you can test whether there is any government decision — if he gets into government — that affects that property, so it is fully tested.

I also have a view about shares. Under the current system you have to declare whether you have shares in a company, but you do not have to declare how many. So you can have a situation where you could have 1 share in 25 or 50 companies — and it looks very impressive on the list — from BHP down. But another person can have shares in 1 company and might own 5 or 10 per cent of the company, or an enormous parcel of shares, and that is not declared, so you do not know whether it is a minor, token investment or a significant investment that may impact on that MP's behaviour in Parliament in policy and general performance.

There has been a drift over the years. The South Australian government has the same provision in this regard. Can I table this document?

The CHAIR — Yes.

Mr DONOHOE — It is a document straight off the web which will come to you later. It is just what they call the registrar's statement for June 2008. There you will see the ones I have highlighted in yellow. For example, the first cab off the rank, Michael John Atkinson, the member for Croydon in South Australia, lists the following investments:

1931 shares Axa (self)

214 shares Axa (spouse)

and interests in land:

29 Thomas Street, Croydon SA (family home)

Late mother's estate:

...

Member is beneficiary of will together with sister. Will not yet admitted to probate.

There is great detail there, so you can test whether Michael Atkinson, in any of his performances, and I do not know whether he is Liberal or Labor — no, he is Labor, because he mentions the shop distributive association — has any conflict of interest at all. So there is a big tick to him.

The next person does the same. Most of the way through, so far as I can see, they are declaring particularly the addresses so you can test if there is any conflict of interest. Some do not; most do, from what I have seen. The register is available on the web, but I will formally table that, if you wish. I have made a few notes on it.

The CHAIR — Okay.

Mr DONOHOE — It appears that the new Victorian MPs, following previous MPs, are grabbing onto the words 'or description'. The act makes it clear — or it should be clear — that they should provide the address or description of the land. I think that should be changed to read 'address and description', so that it is totally clear in everyone's mind that you own a unit at, say, 21 Smith Street, and it is an investment property that you let out. That is your right to do so, but you should tell the public what investments you have.

Over the years a number of MPs have been using the words ‘or description’ to go to the farcical situation of saying in the ‘property’ category, ‘Yes, I have property’; and under shares they could say ‘Yes, shares’. I think we have had some instances where MPs and ministers have said they have a so-and-so trust, a surname trust, and that is it — we do not know what sort of trust it is, whether it is a blind trust, what the trust invests in obviously, and how it relates to them or their spouse or family. I think that really needs to be clarified.

I spoke to Premier John Brumby, literally informally in the corridor, and he appeared to be in agreement that something should be done about the drift in this area just to clarify things.

On the issue of transparency, I have said in my submission that the register should be available on the internet. If you go on the internet and just type in ‘pecuniary interests list’, you will find a number of examples where it is available: House of Commons, South Australia, and that sort of thing. If it is not available as a public document, it defeats the purpose of having a public register. At the moment it is only available to me or to people in the know such as MPs and their staff, if they get into the procedure and papers office on the day of the register being tabled, if there are still copies, or if they order one through the papers office. It is not a widely distributed document.

The register should be available on the internet. Most documents are now available on the internet. The government trumpets the fact that it is at the leading edge of IT and technology, paperless offices and that sort of thing, as well as environmentally, so it should put this information on the internet.

I talked about shares and said the declaration should go down into a bit more detail. You could have a band of shares. I do not want to embarrass anyone by saying, ‘You have only 2 shares’ or 10 shares, or 25 shares. You could probably go to a system where you have a band of shares, say, below 500–5000, 5000–25 000, or above; then you could know who really has a significant interest in a company. That sort of band system has been used in salaries over a number of years.

In terms of scrutiny of the act itself, my understanding from looking at it and from talking to clerks over the years, is that the act states MPs must make the declaration, but there is no testing of the declaration. So Ray Purdey and company can come up to an MP and say, ‘I am sorry, you have not submitted your return in time, therefore you are in breach of the act. Can you please submit it?’. The MP does that, but the MP can write down ‘Property: yes, Queensland’, and Ray Purdey and company are powerless to tell them, ‘You have not fulfilled the requirement under the act’. And because obviously MPs run the Parliament and MPs are the judge and jury, nothing really gets done about the drift that has gone on over the years in terms of declarations.

My belief is that it should be overseen by someone else. Ultimately I accept that MPs are elected and they should run the Parliament and make the laws, but in this instance when it is the MPs themselves and their scrutiny is under scrutiny you probably need someone like the Auditor-General, even the Ombudsman, or a retired Supreme Court judge — someone who is an independent authority — to come in, check through the act and perform the role of an ombudsman in terms of complaints.

So if I were to put in a complaint about an MP constantly refusing to comply with the act, in my view, that person could come in and question them, go through the act and then say, ‘Listen, I have made a decision. Yes, you are right, they have not complied with the act. They should have the addresses of the properties’ or, ‘They should nominate whether it is a blind trust, who runs the trust and what the trust invests in’.

We had one situation, which always puzzled me, concerning an entry made by Steve Bracks when he was Premier. I am not suggesting that he was up to anything improper, but I never understood his entry of ‘Pasco Trust (no personal beneficial interest, nor am I a beneficiary)’. So why did he declare it? He always declared it, for some reason I am not quite sure of, and I never really understood the answer when I asked him informally about it. But that is very confusing to have ‘Pasco Trust (no personal beneficial interest)’. Under the terms of the act I do not know why that was declared. Maybe he thought it was best to err on the side of caution and declare everything.

Just to return to the drift in the way declarations are made, the current Premier used to declare the street name of his other land-holdings. He has now changed that system. I think there should be some exception to the rule where there is a real and present risk, on the advice of police. For example, where a minister is under real security threat, they should not have to declare their residential address.

I think there is even an argument to be made that everyone expects MPs to have a residential address, normally in their electorate, which they can just declare as 'Residence: St Kilda' or 'Residence: Box Hill'. That is fine. It is really the investment properties that put them up to scrutiny, given that everyone is expected to live in a house, whether they rent it or own it — and I suppose you would not have to declare it if you were renting it.

If there was a security risk to a minister, a backbencher or anyone — and a real security risk, not one that is just minor, for example, nuisance phone calls and that sort of thing — there is an argument for having a D-notice type situation, where let us say the farmland where the person spends time on the weekend is not registered. Most people in the community know they live there anyway. Protest groups know, for example, where the Premier lives; they know where the Premier's farmland is.

We all know; protest groups know; the postman knows; the local council knows; green groups know; the farmers' federation knows; the border groups know. People do know, but just for those sorts of nuisance ones that can occasionally get out of control — although we have a fairly good track record in that area — there could be room for a wide declaration or a non-declaration if there is a real physical threat to the person. So I agree with that.

But if it is an investment property where obviously they are not living, because they have rented it out, I do not see why security should come into it. As we all know, the Governor parks on the footpath — I just walked past his car — every Tuesday outside the Old Treasury Buildings. There are no real number plates on the car. Everyone knows the Governor lives at Government House. So those sorts of arguments about privacy or security go out the window when you look at that example. Also, MPs are in the most public of places, their electorate offices and the state Parliament House. If someone wants to view or do something to an MP, they can wait outside Parliament. They appear there 50 times a year or park at the back door probably 150 times.

I was watching the British Open the other night. Lee Westwood did a bad iron shot into the green, or near the green, and the commentator said, 'That shot was as crooked as a politician's expenses'. Obviously that situation happened in the UK. That sort of thing has become ingrained. Your profession and my trade, as I call it, both have problems with public esteem. The drift that has occurred over the years in this act is adding to that. If MPs only pay lip service to the act, that sort of reputation will only get worse.

In terms of when it has been an issue, personal wealth is often an issue in state politics. You only have to look at the last election. Ted Baillieu became an issue in terms of the sale of government schools. The Labor Party ran hard on that. Ted Baillieu's personal wealth became an issue as well. He has talked about going into a blind trust. Personal wealth was also an issue, I suppose, with Evan Thornley before his departure to a better place.

I have talked about the internet.

In terms of local government scrutiny, I think you are also looking into a code of conduct for MPs. I think we have got to the stage where local government has overtaken the state government in terms of transparency. You only have to go into, say, the City of Melbourne website and there is a chart there every three months — I think it is quarterly — of all the councillors.

It has their travel expenses. It has local, interstate, overseas and telephone expenses, sundries, including babysitting expenses — that sort of thing. That, being available on the web, means everyone can check out who is doing what with their blackberry and can check out the costs and comparisons and see who is going overseas. Most of it is run-of-the-mill stuff but it should be there because it is public money.

In terms of the state system at the moment, only in the last two years have we got to the situation where ministers' travel costs and a brief description of their trips are published maybe six months after the trip on the DIIRD website. They are not itemised, though; there is no breakdown of ministerial expenses in terms of telephone, interstate travel and overseas travel on a quarterly basis on a website where people can access it. It should be on the parliamentary website, as should the pecuniary interest list.

Beyond that, I have said how the Governor drives across the footpath, haven't I?

The CHAIR — Yes.

Mr DONOHOE — Basically if you want proper scrutiny, you have to stop the drift that has happened over the years and clarify the act so that it says ‘address and description’ because too many MPs are skating around the act and just getting away with the register basically not being a register. It is sort of a big finger to democracy when that starts happening. If our politicians are doing that, how can you expect other people to have higher standards in the way they go about their business? That, in a nutshell, is my submission and I am happy to take any questions or answers or any abuse that should come my way.

The CHAIR — Thank you very much, Brendan. That was very comprehensive. Can I just take you as a start, to broaden it out a bit, to one of your first remarks: that overall you thought that the act had served us well — —

Mr DONOHOE — As far as it can be tested, yes.

The CHAIR — That is what I want to explore with you — and that most MPs probably do the right thing as far as you can see. We had Brian Costar come to our first day of hearings and he had some good things to say about the legislation. I think from memory — correct me if I am wrong — he said there have been only two instances — —

Mr DONOHOE — Where it has been to privileges?

The CHAIR — Yes, where it has been to privileges. He just used that as a testimony to it.

Mr DONOHOE — But to go to privileges you need the numbers in the lower house.

The CHAIR — Sure, but what I wanted to ask you is to just reflect for a moment with us, given your very long and direct experience of how this legislation has worked, on the things that have been good about the legislation and how it has served Victoria well — if you agree with that?

Mr DONOHOE — What is good about the legislation is the intent — that if you are to be a public figure making public law, you should publicly declare what private interests you have so that people can test whether you have a conflict, whether you are putting the public good before promoting your private interest. That is the bottom line.

As I said, it is on the parliamentary fact sheet and is summed up pretty well. I think everyone accepts that — that you cannot have a situation where you have rich or powerful people, or people with certain land-holdings who may not be that rich but might be about to experience a tenfold increase, coming into Parliament and not declaring it, because then nothing can be tested, and you would get to a situation where people would not trust the government and would not trust the laws they are making, in terms of whether they are being made for the public good.

When ministers are sworn in they take an oath saying that they will perform their office without fear or favour, and that should include their parliamentary allegiance, their factional allegiance or their allegiance to survival in their local electorate.

Back on the privileges thing, that can only happen obviously if the government of the day decides to send the person to privileges. That is why it has happened on so few occasions.

The CHAIR — Yes, but wouldn’t you argue that governments could not act with impunity on that, that they still have to operate within a context of debate and within a parliamentary and a community framework, so they are not totally free to flout that?

Mr DONOHOE — No. Unfortunately the numbers do play a fairly big role in politics, which is fairly obvious.

I think there was a Liberal MP years ago who was under attack from the then Labor opposition because he was potentially in conflict of profit under the Crown provisions, which is very serious; if that is proved, you are kicked out of Parliament. There was a problem. The whole thing dragged and dragged because of the numbers situation. That is where you need an independent body or person, like the Ombudsman, to come in and adjudicate and say, ‘By reasonable understanding of this law here, you cannot sign a contract with another

public body and take money, whether through your spouse or through a business you have set up, when you are already on the public payroll; that is a no-no'.

The CHAIR — So you would see the act's intent as noble and worthy but overall you think the act is not really up to much?

Mr DONOHOE — The intent is common sense, and it is totally necessary for the public to keep faith with lawmakers. The problem is you have to constantly test, particularly with new MPs coming in all the time, the private interests against their public performance. If MPs start to dilute their interests and registrations, we cannot test. I am sure that 99 per cent of MPs do the right thing. Some of them may do the right thing because they know they have to, to clear it. It may be different if we did not have the system.

Some may say, 'I can get away with that'. I am sure the majority of MPs work fairly hard and do the right thing — the majority I know do — but if you cannot test, you cannot test, so there is always a question mark over why they do it. I do not know why someone would write down just 'Property: Queensland'. I do not know what is in their minds when they do it.

Mr CLARK — I just want to pick up on one particular aspect of your remarks because speaking for myself, I think you make a lot of good points in many respects. The aspect I wanted to pick up on was that relating to the issue of wealth. We had a witness at our previous hearing saying that the register was intended to be a register of interests, not a register of wealth.

Mr DONOHOE — Sure.

Mr CLARK — In relation to disclosures and materiality I think your point about materiality is a good one — that the best way of handling things might be to set a threshold level for disclosure — so if you have an interest in shares or whatever above X thousand dollars, you disclose it. Because clearly if you are disclosing that you have got two shares worth \$5 in a company — —

Mr DONOHOE — I agree with that in that it is only a snapshot of time. Obviously if you put down exactly what the shares were, they would work out a time and say, 'So-and-so is worth X, the \$X million man', that sort of thing. And they could have sold all those shares in the months before this comes out, because there is a time lag. Personally I do not mind the band situation, where you declare interests above a certain amount, to show to the public that it is a significant holding.

I do not hold any shares although my son was given 30 shares when he was 10 or something. I think they are held in my name, for him, in trust or something. I have no idea about them now. That does not influence how I report on BHP, if I ever do a BHP story, I could not care, but technically I think I am the holder of 30 shares. Now that is a minimal thing but if I was to be the holder of 300 000 shares and I was passing a law, it is different from being a journalist who holds 30 for their son because someone gave them to him when he was 10. But I have no problems with the band situation, although in South Australia it seems a number of MPs do declare the exact amount, they do not worry about it.

Mr FOLEY — The act, in part II is the register of interests, in part I is the code of conduct; did you have a view as to the trends that seem to be emerging in the other comparable jurisdictions around advisers and special confidential consults, around the ethics of parliamentary activity, of public life, what to declare, what not to declare, given that, as Robert said, the notion of interest rather than wealth, the complexity of peoples' personal arrangements these days and that kind of thing; did you have a view as to what the code of conduct provisions and any assistance to make sure that support for members was properly dealt with under part I, or is your interest just in the register?

Mr DONOHOE — No, my submission was mostly about the register but I think in terms of the code of conduct, a lot of it is reflected in what you have to declare and a lot of it is already stated, that all the overarching principles are already there about how MPs should conduct themselves in the oaths they take when they come into Parliament, and also when they are sworn in as ministers.

In terms of advisers and stuff like that, I think in the House of Commons they have a journalists' register, they have an advisers' register, so you have to declare, if you are an adviser who is the one giving you advice and you are acting on that, and it turns out he owns half of the countryside that is being re-zoned.

Mr FOLEY — Or Cherie Blair's dodgy fellow.

Mr DONOHOE — Yes, there is an argument there for those people to declare an interest although you do not want it to fan out to every public servant, to everyone down the line, to the person who does the photocopying and brings in the document to be signed, but perhaps you could have a situation with advisers where they must declare whether they think there is any perceived conflict of interest. I do not know about keeping an actual register for them because they do not actually make the law and the MPs have to carry the can for the advice they accept.

Mr FOLEY — And that same part I also talks in a very brief manner about the member who is a minister ensuring there is no conflict, and I stand to be corrected, but from the material I have seen here, that is about the only reference in regard to ministerial behaviour that we have come across, yet the ministerial activity attracts, quite rightly, a whole level more of attention and action.

I suppose the issue here is around the separation, given the parliamentary traditions and the Westminster arrangements, the arrangements between executive government and the Parliament. You made some comments earlier about putting it all on the one website: the ministerial arrangements and the parliamentary website?

Mr DONOHOE — They are basically putting this on the website, going back so that people can actually track what has been there over the years because at the moment it is not. It is one of the few government documents, in fact I do not know another government document that is not on the website.

Mr FOLEY — The last question then would be with respect to any enforcement mechanisms.

Mr DONOHOE — Enforcement?

Mr FOLEY — Yes, I understand in the Irish Parliament, if you do not do this, you vacate your seat, and there are all sorts of steps backwards from there. Did you have a view on that?

Mr DONOHOE — Yes. Profit under the Crown is covered by the penalties in there. Is there not a 5000 or something, somewhere?

Mr FOLEY — Penalty units?

Mr DONOHOE — I think the penalty unit works out at — no, that is South Australian.

The CHAIR — Yes, it is section 6(2)(c).

Mr DONOHOE — \$6000.

Mr CLARK — It is section 9, 'a fine ... not exceeding \$2000 ...'.

Mr DONOHOE — 'Not exceeding \$2000'. Okay, but who imposes that?

Mr CLARK — The Parliament.

Mr DONOHOE — The Parliament, okay, so if it is a borderline case, the chances of an MP from the government side, it is highly likely they would be given the benefit of the doubt. What I am saying is it is very hard for politicians to enforce this act on themselves, and there is also, in a wider context, and this has been coming up for scrutiny, it is very hard — is not hard if they do it — politicians governing their own superannuation, acting as — —

Mr FOLEY — 'Some' politicians!

Mr DONOHOE — A group of politicians, elected by Parliament, and it is a collegiate system; that should be open to scrutiny too because it is basically a small club running a very expensive superannuation scheme that is, at some estimates, at the value 40 times out of the normal contributory superannuation member.

Mrs VICTORIA — Like you and I.

Mr DONOHOE — Sorry? You do not agree with 40 times?

Mrs VICTORIA — No, I just said, ‘Like Jan and I’ — we are just regular contributors.

Mr DONOHOE — That is right, because you came in at the wrong time.

Mr FOLEY — Someone might have said, ‘Rightly so’.

Mrs VICTORIA — Correct.

Mr DONOHOE — That is right, but there is a big hangover that will last for a long time because some MPs stay in Parliament 30 and 40 years and after 20 years do not make any contributions to the scheme. So that is a very unusual super scheme, that is controlled by a small group of — and it is a club because it is the National Party, Labor Party, there are no Greens on it yet, and the Liberal Party run it — and the decisions, particularly the controversial ones, are made behind closed doors and are never explained, particularly when MPs have grey applications for special circumstances and they are granted their wishes and then they go off into another life, and it is never explained why they were given the exemption.

So that is another area, but I think that has been looked at, has it not — the superannuation trustees, whether it should be broadened out to being looked after, or at least having a couple of non-MP whistleblowers as trustees, so there is a balance. With industry funds you tend to have employer reps, union reps and an ‘independent’ chair to run the contributory schemes. They tend to work pretty well because you have got whistleblowers on both sides if anyone is doing anything that is too risky or untoward or bending the rules.

Mrs VICTORIA — There are a couple of things that I want to pick up on, Brendan, that you spoke about. One was, I suppose the one that is troubling me the most: members’[security, and you mentioned the Governor and everybody knows he lives at Government House, he is surrounded by aides and security.

Mr DONOHOE — Not when he walks out to the car every morning.

Mrs VICTORIA — True, but in our own homes we are vulnerable if somebody was quite overzealous about a particular issue and I note your terms ‘real and present risk’. I think it leaves us open because if you are talking about publishing this online, it is the sort of thing that people will download or obtain a written copy of and they keep that for time, if they are zealots, immemorial. One’s residential address does not necessarily change on a constant basis. Having the member’s private address listed at any time is risky.

Mr DONOHOE — I think I covered that when I said I would be open to a conversation about residential addresses being kept to, for example, ‘Martin Foley of St Kilda’, or ‘Robert Clark of Box Hill, residential address Box Hill’, because all the local journalists know where Robert lives, where Martin lives. If you really want to find out, you can, but for, let us say, the nuisance person who can become physical or a real danger down the track, and if you are worried about that, I said I am quite open to a system where you have, not the street or the number, but just declare that Heidi Victoria has a house in a certain suburb but your investment properties are separate to that because you are not living in them obviously.

Mrs VICTORIA — Sure.

Mr DONOHOE — If there is a real security risk — I am not going to name any names but you hear from time to time certain things and you know that some people change; I think in the latest one there is a change, one minister has changed, diluted the entry down to just the suburb — you could have a situation where it is not put on the website. Let us say minister A is being threatened by people who ride motorbikes. I have got no problem with that being taken off, and going back and taking it off as well. They will find out, though. If they are really determined, they can find out by ringing the local paper, by talking to the local postman, by talking to someone in local government, by ringing someone in the tax department — there are a 1000 ways to find out where someone lives — or you wait outside the electorate office and eventually they will turn up, or you wait outside Parliament and eventually they will turn up.

Mrs VICTORIA — Sure, but you are talking about having this published online, and, as I said, people obviously download copies of it, as much as you can water it down. If there is, as you say, a real and present risk, that does not go to those who already have it, and I understand the investigative side of it that you are talking about.

Mr DONOHOE — It is one of those difficult things. If you are going to say security is paramount in everything, or the perceived threat to security, you would not have this at all. You would just shut down; you would drive to work in tanks. In Victoria we do not have a history of MPs being physically assaulted, or worse.

Mr FOLEY — Arthur Calwell got shot.

Mr DONOHOE — It was a long time ago. Although I think a journalist did shoot at an MP in a pub across the road about 100 years ago and missed and got the publican.

Mrs VICTORIA — Not a good move. Can I also ask about putting this online? What purpose do you think that serves? Obviously I have listened to what you have said, but it is available for somebody who wants this information — they can walk into Parliament House and get a copy of it. Do you think it serves any greater public benefit to have it online?

Mr DONOHOE — At the moment it is available to what I call ‘the club’, and that is the club of MPs, advisers, staff and journalists. The accepted situation at this point is that the journalists do the job of reading through it, writing the interesting stories and the public finds out that way. But we have moved to an era now where everything is available online. It seems ridiculous that I can look up the House of Commons and see what ‘Lord Snodgrass’ owns but I cannot look up online what the Minister for Planning, for instance, has by way of investment properties and whether they are affected by certain decisions that are made, that sort of thing.

Mrs VICTORIA — But do you think that would contribute to what you were talking about before, and this is something that Robert brought up, which is whether this is a wealth-related thing or an interest-related thing?

Mr DONOHOE — Wealth gives people an interest. It is a pretty big driving force, unfortunately, in some circumstances. I would not want it to be turned into a ‘who is the richest person-type thing’, and that is where I discussed the band — —

Mrs VICTORIA — You do not think there is a danger of that?

Mr DONOHOE — That is where we discussed the band situation: above 10 000 shares or above 20 000 shares, that sort of thing. Someone would still probably come out on top, but if that is the reality, that is the reality, and most people know anyway who they think is the richest. If that affects their behavioural perception of them, that is up to them.

Mrs KRONBERG — Brendan, thank you for your contribution; I think there are some very thoughtful suggestions there based on looking at things and trends over a period of time. You have referred to a ‘drift’. Can you be a little bit more specific or define what you mean by a drift? Are you talking about something that has happened in 2 years or 20 years or 30 years?

Mr DONOHOE — Probably the last 10 years. Under the Bracks government mostly I noticed that a number of MPs started to delete. For example, I have a document on my desk and if someone says to me, ‘Where does so and so live?’, I will say, ‘Dah, da, dah’. After a while I started to realise, ‘I know they had a place; it is not in this one’, and I would go back to another one. I have found that I have to keep the older ones to keep a handle on people’s interests, even where they live. There are a few circumstances where we may have to go and interview them at home and they say, ‘Come out to my house’, and I will say, ‘I know where it is’. MPs may go to the clerks. I am not sure about the exact advice the clerks give, but when they see that another MP has done it, as in deleted the street name and number, that is the new benchmark.

It has lowered the benchmark for scrutiny, and other MPs have followed. They probably have done so in good faith, thinking, ‘This is all I have to declare’. Peter Crisp declares farm 121-121/4486334/807829. I think that may be on the New South Wales side, and that is a search title number, so he has gone down to that. Or maybe he did not want to put that it was New South Wales; I don’t know. If I wanted to check his interests, I would probably have to go up to the titles office of New South Wales, unless I could do it online, and I have not checked whether I can do it online in New South Wales. That is the sort of thing we are dealing with. But there at least he has given a description because he does not have a street address for that farm property. That is why I say the act should be clarified to say ‘address and description of the land’, so if someone owns farmland within other farmland they can say ‘2 hectares within my dad’s property, coast of Wonthaggi’, something like that.

Mrs KRONBERG — Just for the record, I would like to make a comment about security issues and my sensitivity, particularly about my home address. I have had two alarming sets of circumstances of people coming into my electorate office. The first one was a person of the Islamic faith who, because I belong to the same party as John Howard — and he accused John Howard of offending Islam — put me in the same basket as a former colleague, Wendy Smith, and said that we should die. We live with this older gentleman coming in and reiterating this on a regular basis.

Mr DONOHOE — Did you call the police?

Mrs KRONBERG — Yes, and security here knows all about this now. The other one is that we have a man of very questionable conduct — he has been banned by the City of Maroonah from ever setting foot on its premises. A member of my staff was so moved he instituted proceedings against this person, so we have a prevailing intervention order. I have stepped back from that so as not to inflame things. So we have people who have a predilection for this level of aggravation. I think it needs to be underscored.

I can understand the sensitivity and the comments that my colleague Heidi made here in that women have a different experience in the interface with the public. There are men who like to bully and intimidate women, and that is a reality. At the moment I have a feeling of considerable disquiet about my personal safety, based on that experience.

The CHAIR — We will take that as a comment because our — —

Mrs KRONBERG — It is a comment. I am speaking to somebody who has been looking at trends, and I think that needs to be part of the mix for his consideration.

Mr DONOHOE — Sure, and as I said before, I think that was covered by my comments about residential addresses.

The CHAIR — We are here to actually elicit your views on these. I want to ask two quick things, because we only have a minute to go. One relates to section 8 of the act on restrictions of publications. It basically says that you should not be retailing things around unless the information constitutes a fair and accurate summary of the information contained in the parliamentary paper and is published in the public interest. My question to you is: has that constrained your capacity to report at all? Do you have a problem with that section?

Mr DONOHOE — No, I do not know, in a way, who it is aimed at, but if we are to do a story about a new declaration, by definition we think it is in the public interest; that is why we are doing a story on it. Is there a line about being held up to ridicule and malice or something?

Mr CLARK — Without malice.

Mr DONOHOE — Without malice, okay. I am just wondering how and why and what vehicle they would use to abuse the register. I have not seen it in the past; I do not know whether you are worried about a Chaser-type thing, but I have not seen any.

The CHAIR — It has not in any way — —

Mr DONOHOE — That is part of the function: the fact that very few people know it exists. If you go to the parliamentary website — —

The CHAIR — You do?

Mr DONOHOE — I do. If you go into the parliamentary website you cannot find it, because it is not on the web.

The CHAIR — Okay. This is the last question I want to ask, unless there are other things that people want to say. You talked about giving the Auditor-General or a judge or somebody like that a role in overseeing — —

Mr DONOHOE — Oversighting, and considering people's complaints.

The CHAIR — Have you had opportunity to look at other jurisdictions to see how that might work?

Mr DONOHOE — No.

The CHAIR — You have not looked at anticorruption commission submissions?

Mr DONOHOE — No. In South Australia they talk about there being a registrar, but I think the registrar is a clerk. Once again, it is very hard for a clerk to stand up to a politician, an MP, and say, 'I do not think you have fulfilled the act', because the MP would say, 'Well, 30 others have not written down their proper address. Go and talk to them'.

The CHAIR — So it is a person in authority?

Mr DONOHOE — Yes.

Mr CLARK — Presumably if you had an anticorruption commission in Victoria then you could vest that power in them.

Mr DONOHOE — I do not think it needs to go to that level. For example, if the act changed to say 'and description' and an MP put in a return that did not have the address, someone would complain and say, 'Put the address in'. The Ombudsman or the Auditor-General would say, 'You have left the address out. Put it in or be fined or held to public ridicule.' I am pretty sure they would put the address in.

The CHAIR — As there are no further questions, thank you very much, Brendan Donohoe; that has been very useful and stimulating.

Mr DONOHOE — Thanks for the opportunity.

The CHAIR — As I said earlier, you will be given a copy of the Hansard transcript.

Mr DONOHOE — Thank you.

Witness withdrew.