

THE COMMITTEE ON STANDARDS IN PUBLIC LIFE

PARTY POLITICAL FINANCE PUBLIC HEARING 8 July 2010

Church House Conference Centre
Deans Yard, London

Morning/Afternoon Session

Members Present: Sir Christopher Kelly KCB (Chairman)

Rt Hon Alun Michael JP MP
Lloyd Clarke QPM
Dame Denise Platt DBE
David Prince CBE
Dr Brian Woods-Scawen DL CBE
Dr Elizabeth Vallance JP
Sir Derek Morris MA DPhil
Oliver Heald MP

Secretariat: Georgia Hutchinson

Witnesses: Sir Hayden Phillips GCB
Rt Hon Francis Maude MP, Conservative Party
Rt Hon Jack Straw MP, Labour Party
David Heath CBE MP, Liberal Democrat Party
Angus Robertson MP, SNP
Lord Pearson of Rannoch, UKIP
Elfyn Llwyd MP, Plaid Cymru
Councillor Adrian Ramsay, Green Party
Dr Michael Pinto-Duschinsky
Professor Justin Fisher
Professor Keith Ewing

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1. SIR CHRISTOPHER KELLY KCB (Chairman): Good morning, everyone. Thank you for coming. Welcome to this exploratory public hearing by the Committee on Standards in Public Life on some of the issues about the financing of political parties.
2. As everyone I think accepts, political parties are core to our system of democracy. Democracy in the way we experience it in this country does not function without parties and the way they are funded is not a trivial issue. It has already been the subject of considerable attention but it remains also the subject of great interest, principally around the issue of whether large donations can give rise to either perception or the reality of the purchase of inappropriate influence or position. It is also the case that further changes were anticipated in the manifestos of all three main political parties and indeed in the coalition agreement.
3. The Committee on Standards in Public Life is interested in it because, in our view, it is central to the issue of public confidence because and because now is a good time to look at it, at the start of a new Parliament, particularly with the commitments given by the three main parties. It is also because party funding is specifically within this Committee's terms of reference, being put there deliberately in 1997. We have a history in this area; 12 years ago we published a report which formed the basis for much of the present regime. At the time it was hoped, I think, that greater transparency was the key to preventing abuse and helping to restore public confidence, which indeed it has done to some extent, but it has also had some unintended consequences.
4. More recently we issued a further report which in 2009 resulted in the strengthening of the regulatory role of the Electoral Commission. But of course concerns remain.
5. The previous government sought to find a long term settlement by asking our first witness, Sir Hayden Phillips to consider the issue afresh and Hayden tried to broker a deal between the three main political parties, based on the recommendations in his report. As I suspect everyone in this room is aware, those talks broke down without agreement in autumn 2007.
6. The session today is intended as an exploratory hearing. Our purpose is to look again independently at the issues three years after the breakdown of the Hayden Phillips' discussions. At the end of today the Committee will want to discuss what we have heard before deciding whether to follow up with an inquiry of our own. Following longstanding convention, we will consult the Prime Minister before taking a decision.
7. In making our decision we will have firmly in mind the fact that these issues are both complex and have a long history. A sustainable solution cannot be partisan. It will need to be acceptable to all the main political parties as being fair and proportionate if it is to be sustainable. But the very important point is acceptability to the political parties is not and should not be the only criterion. Any changes should clearly be firmly grounded in principle

and based on evidence.

8. I am extremely grateful to all those who are giving up their time to be with us today. We are first going to hear from Sir Hayden Phillips and then from representatives of the three main political parties. Then in the afternoon we will benefit from the views of representatives of four of the smaller parties. I am conscious it is only four of the smaller parties and there are a number who are not represented, but if we have an inquiry there will be plenty of opportunities for those other parties to express those views. All of them, I think, not part of the Phillips' discussions. Then finally we will hear from three distinguished academics who have worked in this area. I hope to conclude the hearing at 4.00pm.
9. So that is the programme and why we are doing it. As I said, I am extremely pleased our first witness is Sir Hayden Phillips. Hayden, you are very welcome. Thank you for coming. Some of us had the benefit of hearing you on the Today programme on this subject at 7.20am this morning.
10. You say in your report that the current status quo in relation to party funding is no longer sustainable. Can you just begin by helping us understand why you believe that?
11. SIR HAYDEN PHILLIPS GCB: I think that certainly all the main parties have suffered from the big donor culture. There have been enough difficulties created by individual donations and allegations around them for the system to be perceived by the public, whether rightly or wrongly I think on the whole, and certainly by the press, as one which is basically broken and at risk. In other words, another scandal could occur at any time and it would put the system further under strain.
12. I think also people feel that if we could find a way of broadening the base of party funding so that more individuals with perhaps less wealth were involved in small ways that would be healthier for our democratic arrangements. I mean, I think we are all pretty familiar with the way in which President Obama, using the internet, and raising vast sums of money in small donations really transformed the way that was handled. We made attempts in 2007 to think of ways in which we might encourage that in this country.
13. So I think it is not as though we have to make a change tomorrow but if do not make a change the day after something else will go wrong and then there will be another period of people charging around trying to find a solution in a hurry. What I hope and believe, given the commitment in the coalition agreement, and the commitment in the Labour Party's election manifesto, is that parties will be prepared to sit down when they can and have another crack to see if they can solve some of the difficult issues.
14. Sorry, I have gone on too long.
15. SIR CHRISTOPHER KELLY: Can I just be clear, when you say "the system is at risk", do you regard this as an issue of perception or do you think

there actually are serious instances of abuse in the current arrangements?

16. SIR HAYDEN PHILLIPS: I think on the whole it is more a matter of perception than reality. The second point, Chairman, I mentioned is the fact that I think that there is a very real sense, certainly including within the leadership of the three main parties, that broadening the base of funding would be better for democracy and safer for the parties themselves than the reliance either on large donations from particular individuals or large donations from the trade union movement.
17. SIR CHRISTOPHER KELLY: If that perception is there, why did you fail to get agreement, do you think?
18. SIR HAYDEN PHILLIPS: Because there remain real differences of view. It would be interesting to see what the party representatives have to say today to this Committee. There remained then, and I think there still remain, real differences of view about how far you could go in changing things in particular areas.
19. As you know, the proximate cause for the breakdown of talks in 2007 was a difference of view about the way in which affiliation fees of trade union members should be treated. That is an important issue for the Labour Party, given its history and its culture. It is an important issue for the Conservative Party given their belief that in fact there should be greater freedom for individual trade unionists who do not particularly vote for the Labour Party, either to send their funds to the Conservative Party or the Liberal Democratic Party. That was the proximate cause of breakdown.
20. I think one of the causes for why we could not easily go on in 2007 was that I had set myself the task, in agreement with the three parties, that nothing was agreed in the talks we had until everything was agreed. You ran the risk there of course that you were missing the chance to seize an 80 per cent success because the last 20 per cent you could not manage.
21. If we had got to the point where only minor issues of difference remained between the parties I think people would have forgotten that rule we set ourselves and would have been prepared to come to the table and deal with it.
22. As I say, the proximate cause was over trade union funding of the Labour Party. Underlying that, however, I think that we would have struggled had we got to the detail on this of how much and what sort of public funding would be best to have, which was required both for practical reasons, because once you put on a donations cap that is very tight the political parties lose a great deal of money suddenly. But also there were those who argued that as a matter of principle, as in most other countries, the lion's share of the funding of political parties should come from the state.
23. That is not, at the moment, I imagine a very popular cause and I think politicians would find it very difficult to stand up and say, "This is the precise

moment at which we will send large sums of taxpayers' money towards political parties". However, having said that, we have to be careful not to deny the reality of the fact that if we are going to change the system and have donation caps which are quite sharp, you have to find some other way of providing parties with the resources to campaign to the extent they need to in our democracy.

24. Sorry, these answers are too long.
25. SIR CHRISTOPHER KELLY: No, they are fine. The fact that I am not following them up is only because other people will follow them up in a short time.
26. The question I want to ask you now is with the talks having failed once, do you think that there is the prospect of consensus now we have reached a different stage in the electoral cycle? Following up from that, because you are unlikely to reach a complete agreement, do you think that it would be necessary for an independent committee such as ours to produce an independent set of recommendations which even if they are not completely acceptable to all the parties nevertheless are sufficiently acceptable to break the logjam which you encountered?
27. SIR HAYDEN PHILLIPS: The answer to the first of those is I do not know. I have an opinion but I do not know because whether a consensus is achievable over the next year, say for example, depends very much on the degree to which the three main parties have maintained or changed their views on certain particular issues of policy, and I am sure the Committee will want to explore that with those representatives this morning.
28. On the second of those, I think even if you have got a committee like yours, genuinely independent, setting out a serious of recommendations of what should be done, at the end of the day you are still left with the issue as to whether or not that independent view can create a consensus between the parties. It is the sort of subject on which we are both agreed that proceeding by consensus rather than using your parliamentary majority is probably the right way to go.
29. If we had had a position in 2007 in which we had not set ourselves the high hurdle of saying nothing is agreed until everything is agreed, and had tried to go for 70 or 80 per cent of what we could get, we might have got something useful. I suppose I would suggest that coming out of any work that you decide to do is that your Committee will want to form a view about whether it could craft something which, if only 70 per cent of it was accepted, would still be a definite improvement over what there is now.
30. I think the issue will remain difficult until two quite difficult issues are tackled. One is in relation to the trade unions and affiliation fees. I think that remains an issue. The second is the nature and extent of state funding. I think all the reports in the world, my own efforts, the potential possibility of your efforts, will not necessarily alter those issues until the parties themselves

are prepared to move and they are prepared to stand up and say to the public, "In order to get reform in this area I am afraid we are going to have to dip in to the taxpayers' pocket".

31. SIR CHRISTOPHER KELLY: Yes, I suppose we might come to the view that even though consensus is important in building sustainable solutions nevertheless particularly if an element of further state funding was involved in any solution it might be more in the public interest that such a solution should be recommended by an independent body rather than dealt with by what might be pejoratively described as a stitch-up between political parties.
32. Can I ask one final question, which is when this was first looked at by the Committee 12 years ago, our predecessors and indeed others at the time, thought that the answer was transparency and that transparency of itself would deal with many of the issues. If that had been the case we would not be here today. Why do you think that transparency by itself is not the answer?
33. SIR HAYDEN PHILLIPS: I am not absolutely sure. I learnt quite a lot during the course of doing the work and I was particularly struck, as were the Select Committee, and indeed your predecessor committee, by the approach that had been taken, particularly in Canada, which said that this is the sort of thing where if you only partly regulate it you do not really get a grip on it at all. Because you have a system which is quite dynamic with a large number of elements in it, and if you simply rely on transparency and say everything that goes on will be absolutely open, in a world in which people can avoid that degree of transparency legitimately so, I am not suggesting people are breaking the law, then it is a very fragile plant transparency on its own. That is what has proved to be the case whether it was allegations about cash for peerages, whether it is other sorts of allegations that affect other parties. It turned out not to be robust enough.
34. Since obviously the work that was done by your Committee and by me the last government did of course introduce a number of changes in relation to the Electoral Commission so there has been a considerable strengthening there which is a good thing. But I think most people think, there may be those who argue against it, unless you get a better grip on the big donor culture on the one hand and you have pretty good controls over the amount of expenditure being spent on the other, you have a system which is still at risk of going wrong again. I cannot prove it, but I think that is how I feel about it.
35. DR BRIAN WOODS-SCAWEN DL CBE: Could I unpack this area of donations a bit more? You have explained your view that a cap on donations at some level would both go some way to dealing with the notion of undue influence and enhance public participation. You recommended a cap of £50,000 which for very many people would be a great deal of money. How did you arrive at the judgement that £50,000 was the right amount to cap individual donations?
36. SIR HAYDEN PHILLIPS: It is not necessarily the right amount. Do not forget I was engaged in two processes here. Quite a lot of time was spent in

studying the subject and producing a set of recommendations that I think were based on principles, and then sitting down and having a negotiation, which I chaired between the three parties. A cap of £50,000 was favoured by the Conservative Party, the Labour Party and the Liberal Democrats would have preferred lower, but what I was trying to produce was a package here in which not everybody got their first preference votes on every issue.

37. You cannot look at the way the work was done, as it were, as if £50,000 was the result of a wholly logical and careful process of saying it is £50,000 rather than £120,000 or rather than £10,000. That was not the way we were thinking about how to get an agreement here.
38. All I would say is that I think while £50,000 sounds a lot of money to a lot of people it is unlikely to be the sort of sum of money for which people could think that people were buying themselves favours from political parties. All one's experience I think points in that direction.
39. So I am afraid I cannot offer you an elegant, logical, carefully worked out reason why £50,000 rather than £30,000 or £80,000 was the answer. But it sort of felt okay at the time. It will be interesting to see now whether the party representatives remain comfortable with that. I imagine the position is very much the same. I think this is the sort of sum of money which the Conservative Party would think was reasonable. I think the Liberal Democrat and the Labour Party would prefer something more like £10,000 as a cap.
40. What you then have to do though, depending on whatever sum you go for, you have to work out the financial consequences of putting a cap in a particular position and you have to try to work through what you think will be the behavioural consequences for donors of the level of the cap you impose.
41. During the work I did with a number of academics we tried to do some work in this area and it proved to be very difficult. Of course the evidence-base of what happens to people's behaviour when you change those sort of financial incentives and disincentives inside a political system just is not there. You have to look abroad to see what might happen and there the systems and the cultures are rather different. So it is quite difficult to get that precisely right. As I say, I was engaged in a negotiation rather than providing a logical answer to a sensible question.
42. DR WOODS-SCAWEN: Given that £50,000 does remain a large sum of money for very many people, how did you arrive at the view that that amount substantially eroded the concern about the perception of influence, if not the actuality of influence?
43. SIR HAYDEN PHILLIPS: It was such a dramatic change from the position in which there is no cap at all that I think that is the first point. I think the second point is you try to look at the whole package all together and one of the elements of the package which I was at the time quite keen on, and I do not know whether the Committee would be keen on it now, was the fact that we were trying to find ways of encouraging people with much less money who

were interested in politics to make small donations. We came up with the view that one of the ways you could do this was by having a matched funding scheme up to £10. I put in £10 the state matches it with £10. This is a sort of Obama style approach. I claim to have invented this before he did. So it is trying to look through the whole set of arrangements that you produce for a reformed party funding system. Taking all the elements together and seeing how an ordinary person would feel about the totality of the package rather than how would they feel about a particular aspect of it. I hope that makes sense.

44. DR WOODS-SCAWEN: I understand. We have talked about political parties, we may be moving to a world particularly with technology, social networking and so on, where the political landscape gets populated with a lot more single issue organisations which may come and go, other kinds of organisations which have certainly a footprint in the political landscape. Have you considered the extent to which the cap would impact, not simply on recognised political parties but the possibility that in this more crowded landscape there will be more and more people looking for personal donations?
45. SIR HAYDEN PHILLIPS: Yes. In the sense that the way in which the original proposals were constructed of course tied the donation cap to those who had two seats or more in the main parliaments and it linked public funding to having accepted the donations cap. So there will be lots of small single issue organisations which would not be affected and they could raise money in the way they wanted to do so.
46. If they were, however, moving towards a position in which they wish to get representatives elected to the main parliaments of the United Kingdom or the European Parliament, and they got past whatever the threshold you might set, then the whole system would kick in.
47. When we were thinking about how you might encourage small donations we were, without quite getting to the point you have described, imagining ourselves to be in a world in which people were interested in politics and political issues, were not committed to an individual party, but were interested in what the parties were saying and were prepared to make that sort of contribution because of their interest. Just as they might be prepared to make contributions to a single issue if they were passionately green, and were concerned about climate change or something of that sort.
48. DR WOODS-SCAWEN: What is the risk that that kind of arrangement would encourage the set up of a lot of front organisations for political parties?
49. SIR HAYDEN PHILLIPS: I do not think very great. It is very difficult to get to know about these things because we do not have an evidence-base other than by looking abroad. Systems of the sort that were contemplated in 2007 have existed in various countries and that has not been a serious issue. I think that is an area where some more work might well be worthwhile.

50. DR WOODS-SCAWEN: You said in your opening session that the position of trade unions was part of your discussions. Without getting into the detail of that element of the discussions, do you think the question of political donations to and through trade unions is capable of resolution?
51. SIR HAYDEN PHILLIPS: There is nothing in this subject that is not capable of resolution. It is a matter of political will and trying to think through what in the long term is the place where you want to position yourself. What I tried to do when I was doing this work was to also follow another principle which seemed to me to be worthwhile if one could achieve it, which was to make sure that one tried to respect the different cultures, structures and traditions of political parties.
52. It seems to me there are two ways in which one can go on this particular issue. One is to go to see whether the Labour Party would be prepared to accept the position in which provided the affiliation fees of individual members were not aggregated but treated as individual donations under any cap they would nonetheless be prepared to say, "We can allow those who do not wish to affiliate to the Labour Party to send a donation, an affiliation fee to another party". Would they be prepared to go this far? I think that is a very big step for the Labour Party to take. I recognise it is a very big step, which is why I hoped in the total package we were dealing with the compromise I was suggesting, which is much greater transparency of affiliation fees than has existed before and absolutely auditable position so there is a one to one calculation. You know exactly what the position is.
53. In a sense, Chairman, I was saying that transparency in this area will be sufficient but that was not acceptable to the Conservatives who, perfectly logically say if a lot of trade union members vote for other parties why should they not be allowed to choose to give and they are disabled from doing so because they have to opt out of the levy rather than opt in to the levy.
54. These are quite difficult cultural issues for the Labour Party and I tried to proceed on the basis that I should deal with this with some delicacy and care. We did not get there on that. You will have to listen to what the party representatives now say. My personal feeling is if we are going to get a successful package there has got to be some movement in that area, either on one side or the other of the two main parties.
55. DR WOODS-SCAWEN: So you would see this as an area where agreement is a pre-condition of a settlement?
56. SIR HAYDEN PHILLIPS: I think they have got to try to come to an agreement here because otherwise, however cunning the recommendation may be, either from my work or from any work the Committee now do, if it was acceptable it would then end up by being imposed through a parliamentary majority.
57. If you are doing that to a political party in a way which does not fit its culture, its expectations, its history, you are doing something which might be

really damaging to the longer term sustainability of the very package you were implementing. It is a point you were making earlier on, Mr Chairman.

58. I think both of the main parties have to try and think in a very grown up way about how they might try together to find a solution to this problem. It will mean compromise on both sides. It is no good thinking each is going to get their way outright.
59. I considered whether we should hammer away at that in 2007 and concluded, rather sadly, that I did not think we were going to come out all right at that time. The position may have changed and the nature of politics has changed, the nature of who is up, who is down, who is in government, who is not in government has changed. Maybe we should have another look.
60. DAVID PRINCE CBE: I would like to ask you a question about expenditure. Can you tell us why you came to the conclusion there was an arms race in spending by the political parties? I think you talk about being determined to gain a competitive advantage over each other. I ask for your evidence because this is something that excites controversy, there are quite a number of academics who actually suggest there is not an arms race and that expenditure peaked some time ago. Can you share with us your perception?
61. SIR HAYDEN PHILLIPS: Absolutely. I hope and believe, although I have not read every line of the various reports I am meant to be the author of, that the word "arms race" never crossed my lips. I have never believed in it.
62. What I believed in, however, was that if you were tackling the income side you should have a mind of the view that on the expenditure side, even though there may not be an arms race, people thought a lot of money was being spent by political parties on campaigning. I am not suggesting any question here that that is illegitimate. Certainly from all the work that the select committee did and that I did in talking to foreign jurisdictions they were very clear that if you were going to move in this area you should move both on income and on expenditure.
63. I think, although I am no longer absolutely up-to-date with the changes that have been made on some expenditure controls, the expenditure control system here was neither comprehensive nor comprehensible for some people, certainly not for me it was not. So I went for something incredibly simple, which is an overall expenditure control box which lasted for the life of five years in parliament. To that extent the changes being contemplated constitutionally fixed for five year parliaments fit rather neatly into the package that we had originally devised with an election premium. But you left it to the parties to decide when they wanted to spend their money, you left it to the parties to decide organisationally how to spend their money, whether locally or nationally, and you step back and just let them get on with it. But you did cap it.
64. One of the reasons I thought it was a good idea was that certainly in the talks I had with the three main parties, they were quite open in private, and I

hope they will say it today, that a lot of things they spent their money on in their view were not value for money and a complete waste of time. People have said to me these poster campaigns cost a lot of money and they influence no one.

65. I think there are issues around like that and that is why I think without there being an arms race, which I never believed in really, some politicians I was negotiating with did believe it and used that rhetoric. I thought it was better to have a balanced package with some controls on expenditure as well as controls on donations. Long answer to a straightforward simple question.

66. DAVID PRINCE: Can I just follow up on what you described as the “control box”. How did you arrive at the figure that you used? I think it was £150 million to be spent over the five years of parliament. What is the evidence that that is the proper cost of politics over a five-year period in your view?

67. SIR HAYDEN PHILLIPS: You use words like “proper”. I am not trying to claim, as I was saying in answer to Dr Wood-Scawen’s question that in terms of the package of proposals there was a precise knowledge on my part that that was the right number. What we did was to look through what people had been spending and how it had grown over time. We sat down and talked to the parties straightforwardly about what they felt they could live with and scaled it back a bit.

68. It was very much a compromise deal as a part of the overall package. I am sure if people would do the work again now one would want to go in and try to sort out (a) whether the overall control system I recommended was the right one or something rather more detailed and focused on an annual basis was better, and (2) whether those sort of numbers were objectively justifiable as opposed to being justified as a part of getting a deal.

69. There is some evidence, and I think there is evidence in the papers that were published. We published, as you know, all the papers that the parties had and the minutes of meetings and I think in some of those papers there are a number of these calculations but I have not had a look at them since they were published at the end of March.

70. DAVID PRINCE: Just one final question: in your report you mentioned fairly briefly that you thought the controls on third party expenditure should be strengthened. Can you say a bit more about that and what you had in mind behind that?

71. SIR HAYDEN PHILLIPS: I cannot recall the detailed reasons for that, to be absolutely honest with you. What seemed sensible at the time, certainly all the parties agreed with that, if we were going to go to the extent we were trying to go to in controlling it the way we did, we should also then look at third parties and see what could be strengthened in that area. But I do not think I had any particular proposals in my mind. If I did I am afraid I have forgotten.

72. DR ELIZABETH VALLANCE JP: Good morning, Sir Hayden. I want to ask you about state funding but can I first of all just go back to the donations question and ask you a very simple question about whether you ever contemplated recommending no organisational donations at all? Whether only individual donations should be allowed?
73. SIR HAYDEN PHILLIPS: I did think about that and I thought about it very hard. But I thought actually that is fine except it completely undermines the funding of the Labour Party, and I was not in the business of going about destroying people's lives.
74. DR VALLANCE: Unless of course we have got our act together in terms of state funding, which is exactly your point.
75. SIR HAYDEN PHILLIPS: You could get to a point where you could actually ban it if you have got the balance across the whole package right. We got to a stage where it was accepted by the Labour Party that any donations cap should apply to the organisational donations of the trade unions. That was agreed. It was the handling of the affiliation fees that caused the difficulty. So we were almost at the point you were implying we might get to, and you could envisage, once you have a pattern of planned additional funding from the state, a situation in which I could believe that the Labour Party would say that is fine.
76. Block grants from the unions themselves, either capped or banned, but individual members, if they want to make a contribution to the Labour Party, can do so in the traditional way and it be treated something under the cap, whatever the cap might be, and not aggregate it.
77. So I think there is a way out of the box but you can only get there if you look at the thing as a total package and not as a set of single issues and not linked up. Does that make sense?
78. DR VALLANCE: It does, and thank you for that. Now I must revert to what I am really supposed to be asking you about, but I did think that was an important issue to get straight.
79. What really made you decide that taxpayer support for political parties was the way forward? I understand what you are saying in relation to the trade unions and so on, but did that not rather muddy the waters, confuse the issues here, whether you were really talking about political donations or whether you were talking about encouraging people to support political parties?
80. SIR HAYDEN PHILLIPS: It is quite difficult to unpack that.
81. DR VALLANCE: I think what I am saying is that the real issue that you start with is the issue of political funding, but there seems to be a kind of underlying thread here which says, "By the way we will encourage people to make donations and that that will be part of the state funding deal". This is not

so much to do with funding, this is to do with encouraging people to participate.

82. SIR HAYDEN PHILLIPS: You are quite right. We were trying to have our cake and eat it in all possible directions here. The logic, I think, went as follows. Everyone seems to say we should cap donations at a reasonable level. If we set it at £50,000 or £10,000 what are the consequences for the funding of political parties? That calculation can be done. Their funding is decimated. They can no longer do anywhere near what they think they ought to be allowed to do in terms of running political campaigns of one sort or another. How do you get that paid for?
83. There are two places you can go. You can either believe you can set up a system that will encourage lots and lots of small donations sufficient to fill the gap or you can say, "I do not think we can quite manage that, at least not in the short term". Therefore you need to look to the taxpayer to provide at least some support and possibly a bridging support over a period until you have transformed the way parties are funded.
84. If you are going to go down the state funding route you use it both to plug a gap, those who believe in it use it because in principle they think it is right, that it will provide greater accountability of political parties to the electorate because it is the electorate that is paying for them. But thirdly, if you are going down that route you could try to use it to encourage more engagement with political parties to get more of the plural democracy which we were talking about earlier on.
85. So I try and hit all those targets. So that is why you have a system which in what we were talking about at the time was what we call the pence per vote in which you get so many pence per vote cast for your party at the last election. Then you had this other arrangement with matched funding of £10 for £10, which is the public expenditure way of dealing with the issue that seems to be becoming fashionable again, talking about giving tax relief, which we walked away from on the grounds that I think a lot of people did not feel political parties were charities and we would have difficulty in explaining that to the public at the time, although there were some aficionados on the subject.
86. That was all set out in the main review document we published in March 2007. That is a rather convoluted way of answering your question but I hope it helps a bit.
87. DR VALLANCE: I think it does because perhaps it just comes back to the beginning of my question which is should we in this inquiry perhaps be more focused and not allow ourselves to be drawn into too many issues around moral issues, if you like, about the good, bad or indifference of democracy and how that is maintained.
88. Can I just move on and say, you have mentioned again there the state funding being perhaps rather difficult to introduce at this time. You said that again on the radio this morning. You have said it here. How do you deal with

that, if it is so central to your suggestions, it is part of your package, but you do not actually think that this is the time or place, as it were?

89. SIR HAYDEN PHILLIPS: I suppose in the way we envisaged doing it in 2007. A lot of time was spent working out very detailed transitional arrangements running over a five-year period, quite long, in which you progressively move the donations cap down from nothing through £500,000, £250,000 until you got to £50,000. You kicked in the expenditure controls on day one to make sure the public were reassured people were not wasting money but you did not get to the full public funding until the end of the five-year period.
90. It seems to me at a time when the government has to make quite savage cuts in public expenditure, politicians might find it difficult at the moment justifying an extra £20 million a year coming out of the state coffers to go to political parties. Five years down the track that may be quite another matter. I do really believe that if you are going to change a system like this you need to give the parties time to adapt to change.
91. We were talking the same way in relation to trade unions where we were suggesting a number of changes about affiliation fees but they were to be bedded in gently over a period of five years. I think you have to enable people to feel comfortable with this. This is not something you can do overnight. As you cannot do it overnight you can take advantage of not doing it overnight, saying you can do it over a long period, so that while you commit yourself to public funding of political parties for a larger measure you do not do it at the same time as you are going around savagely cutting other services. That way, I would hope, those in a position of some political responsibility would feel able to support the idea of state funding but also to say, "We are not going to do it tomorrow. We are going to get there gently".
92. DR VALLANCE: It is a cultural change?
93. SIR HAYDEN PHILLIPS: Yes, you get people's expectations changed and you actually take the money, you hand the money over further down the track.
94. DR VALLANCE: Thank you. Just one very brief one on policy development grants which you recommended getting rid of. If the parties were to receive direct state funding would you also support getting rid of Short money or Cranborne money?
95. SIR HAYDEN PHILLIPS: My own view about it is if you are going to give a dollop of money from the state, you have laid the conditions down, then you should try and get rid of as many of the little bits and pieces that have grown up through history now. Even though people are attached to them. I would have lumped the whole lot in with one single grant. But that is a matter of judgement.

96. OLIVER HEALD MP: You mentioned some changes to the way in which affiliation fees were dealt with. One of the points made by the Liberal Democrats, and I think the Conservatives, was that there should be a clear and transparent link between the individual donation and the money actually arriving with the political party. Was that part of the change you envisaged?
97. SIR HAYDEN PHILLIPS: Yes, if you want to get into the anorak stage of studying it and you go to sheet one of the draft agreement put to the political parties you will see that items A7, A8, A9, A10, A11, et cetera, all deal with this quite difficult issue of auditability and total transparency. I was trying to get to a stage where I was not saying to the Labour Party you have got to agree to opt in, which actually was a cultural phenomenon of great difficulty for them. What you were saying, that the frequency and the clarity with which you make it clear to individual trade union members that you can opt out and how you can do so easily should be enhanced.
98. So we were both taking the point you have made and trying to use much greater transparency to provide a way of seeing whether I could persuade the Conservative Party to accept that. I did not quite get there.
99. RT HON ALUN MICHAEL JP MP: I just wanted to explore an issue of expenditure and political activity. Is it really possible to draw a line between expenditure on political organisation which includes membership, policy development research, engagement of the public, drawing up of manifesto, those sorts of things, and campaign expenditure per se? In other words promoting either the party or particular policies.
100. I wonder what your view is of the relative impact of campaign expenditure by political parties and two other aspects, the coverage of politics by the press and media, which is the means by which the public generally engage or hear the messages from political debate, and the campaigns by third parties and coverage of those campaigns. In other words, how important and effective is campaign expenditure?
101. SIR HAYDEN-PHILLIPS: First of all I think the implication you were implying earlier that it is very difficult to parcel these things up into little neat packages and say at this bit policy thinking stops and something else begins to happen, and this is the point where we are thinking about the policy about what we should campaign on and here is the campaign, and somehow they are sharply dividend.
102. For what it is worth, while I was learning my trade going through this work, it seemed to me those distinctions were very artificial and if you try to base a system of expenditure controls on those distinctions you would end up in the most terrible trouble. We did not go down that route at all. We did of course exclude certain categories from spending controls which are fairly obvious ones. For example, the cost of compliance with electoral law we thought we should let people comply and give them money to do so.

103. Second comment, this brings me back to my sort of party posters anecdote, which is just an anecdote, is that I think that campaigning in the traditional sense, and after all you are much more expert than I am in this area, no longer delivers the influence that it may have done 20, 30 years ago. Campaign strategies which know how to explain the issues simply and can exploit the media opportunities, they may be just as expensive to run but they are the way in which the message on the whole gets across to most voters, even though I deeply regret the sort of passing of traditional constituency meetings, which one attended in one's youth.
104. I think perhaps one of the weaknesses in the analysis we did in 2007 is that we did not really work through to the degree perhaps we should now do in some of the answers to the questions you pose. We did not also factor in quite to the extent that we ought to do now the degree of single issue interest there is and the way in which the nature of politics is becoming much less monolithic than our traditional expectation has been.
105. Personally, I do not think that need necessarily alter where the hard issues are in terms of reform of party funding but it may influence the way people think about what might be a proper set of reforms. So I think I would be quite open-minded about how that might influence prospects for the future.
106. SIR CHRISTOPHER KELLY: Elizabeth put to you that there could be a different objective in encouraging getting back to the golden days of greater mass membership of political parties. That and the funding of political parties are two separate issues. But running through this and in some of the papers we have had from the individual parties there is clearly a desire to look at ways of using any solution to this set of problems to encourage greater mass membership of political parties. Is that cloud cuckoo land? Do you think there is scope actually for increasing membership?
107. SIR HAYDEN PHILLIPS: There is a risk of self delusion here on the part of me and the political parties that somehow we think that we can find a way of returning ourselves to the sort of 1950s: 1 in 11 people were members of political parties in my youth; 1 in 88, if that, now. I do not think that is the trend that the parties should think they can try to reverse. What I think they can try to do is to get more interest and engagement about their policies from a much more sceptical audience of voters who do not necessarily want to belong to a political party but may have interest in politics and knowing what the parties stand for, and are therefore willing to pay some money to get that connection without becoming members.
108. It was on that basis we did our £10 for £10 proposal. It is on that basis that President Obama managed to get, I think, such a very, very large engagement. I know that analogy is very difficult because we are not dealing with charismatic presidential elections, although ours get more and more down that sort of track, particularly now we have television debates. We are not moving away from that.

109. So there may be ways of using the way in which political leadership is presented in the modern media and through the internet as ways of both raising money for parties and engaging more people in party political interest, but without pretending that you can return to the days of mass membership of political parties, which I think are gone for the reasons that Dr Woods-Scawen was mentioning earlier on.
110. SIR CHRISTOPHER KELLY: Thank you. Then there is the issue of smaller parties, which you largely put to one side partly because I imagine you thought it easier to reach consensus among the larger parties and then the smaller parties would come along, partly because you were implying that there were not really issues to do with smaller parties. Presumably because you thought they would not be in a position where it would be possible to purchase position or influence through donations to them.
111. But we now live in a world in which some of the smaller parties are able to do that through assemblies or parliaments in the other nations, and if we had had a different outcome to the election some of the minority parties might have been able to have a major influence on what turned out to be the coalition agreement. If you had spent more time on the smaller parties do you think you would have identified a different set of issues?
112. SIR HAYDEN PHILLIPS: First of all, big headed protest from me. I had talks with every single political party in the United Kingdom that had representation at Westminster or the three devolved parliaments and the European Parliament and took great care over what they said to me. I made sure that I visited the relevant parties in Scotland, Wales and Northern Ireland rather than making them come and see me in London.
113. I mention that not just because I want to pat myself on the back, but to say that they were very much engaged in the process. I was very clear about their views, some of them were reflected in the main document that I produced in March 2007. I was very conscious that we needed to make sure if the talks which I chaired, and we had five sessions of the three main parties, were beginning to produce bankable results then it would have been necessary to have made sure that not just myself but the three main parties were seen to be consulting the smaller parties about what the outcome might be.
114. I think you have got to do that and you have got to do it with care and you have got to do it openly and you have got to do it deliberately. But you will see that given the construction of the proposals we were talking about in 2007 that to be triggered into the new system you have to collect at least two members of one of the assemblies or Westminster itself. Then while you were picking up some smaller parties you were not picking up very tiny parties at all, therefore I tended to see them as falling outside the scope of these controls unless they actually got themselves within it under the rules.
115. SIR CHRISTOPHER KELLY: Thank you very much. Is there anything else you would like to say to us?

116. SIR HAYDEN PHILLIPS: Only one thing really which is that I hope in the work that you are now doing we can sustain and stimulate continuing interest in this. I know the coalition agreement does have a clear commitment to turn to the detail of an agreement, and I hope that the Committee will feel it can encourage political parties as soon as they are able to, and I reckon there are a number of things that stand in the way of doing it tomorrow, but to turn to this and try to settle it over the next 18 months. I think there is a good opportunity.
117. The other thing I would say is you can solve a lot of these problems by having careful transitional arrangements which take place over quite a period of time. If people are prepared to commit themselves to changes of principle, then I am sure we can negotiate ways in which the timing of these can be sorted out because so much of this is cultural and about people's expectations and fearing leaving hold of what they have had in the past and you have to give people time to adjust to change here.
118. SIR CHRISTOPHER KELLY: As part of that process, is it your judgement that further work by this Committee would be a helpful way of getting to that outcome?
119. SIR HAYDEN PHILLIPS: I am in a very difficult position on that, Chairman.
120. SIR CHRISTOPHER KELLY: That is why I asked you the question.
121. SIR HAYDEN PHILLIPS: I boldly write in the Times newspaper, "No more reports are required". Politicians know what to do. They know where the issues are. Actually what they need to do is to settle down and solve them. That is position one.
122. Position two is a bit more help for them in this area might well be a jolly good thing and I leave the Committee to decide what it is going to do rather than for me to tell it what to say.
123. SIR CHRISTOPHER KELLY: Am I to understand that you are occupying two positions simultaneously?
124. SIR HAYDEN PHILLIPS: Yes, exactly.
125. SIR CHRISTOPHER KELLY: Those who know you well will not be entirely surprised.
126. SIR HAYDEN PHILLIPS: The mandarin tradition throughout history.
127. SIR CHRISTOPHER KELLY: Thank you very much. It has been extremely helpful.
128. SIR HAYDEN PHILLIPS: Thank you very much, nice to see you.

129. SIR CHRISTOPHER KELLY: Our next witness is the Right Honourable Francis Maude MP, speaking on behalf of a Conservative Party. Minister, You are very welcome. Thank you for coming.
130. May I begin by asking a question which is not intended to be provocative? When this Committee first looked at this issue 12 years ago, the Conservative Party view was against caps on donations, against caps on spending and against state funding. The position now is rather different and it would be helpful to understand why you have come to a different view. Is it just different people being in positions of authority?
131. RT HON FRANCIS MAUDE MP (Conservative Party): I think things have moved on. On caps on donations, at the time when Sir Hayden's inquiry started - which ran over a period of 18 months, if I remember rightly, in two phases - we said at the very outset that the need to deal with the big donor culture was very pressing and we felt that an individual donation cap was appropriate. There was, if you like, an understanding. We remain very sceptical about additional state funding of political parties.
132. The way David Cameron expressed it at the time was if there is a real prospect of a real, sustainable and long-term settlement, we would be willing to swallow our concerns about state funding for political parties in order to achieve an overall deal. That did not, in the end, prove possible. The kind of semi-unspoken understanding was that the Conservative Party would swallow its objections to additional state funding if Labour swallowed its problems with union funding, particularly by accepting a genuine cap on donations by unions at the same level. It was on that issue that the process foundered, with absolutely no fault attaching to the way Sir Hayden conducted the discussions, which was absolutely exemplary.
133. SIR CHRISTOPHER KELLY: As sometimes presented, it appeared as if the Conservative Party had changed its mind in the course of the discussions. Is that an unfair depiction of what actually happened?
134. FRANCIS MAUDE: There are two areas where we were and remain sceptical. One is caps on expenditure. We are totally happy with election year caps as they operate. There are issues but actually they become a lot easier with a fixed-term parliament. There is a massive issue with not knowing where the 12-month period starts. It is difficult. A fixed-term parliament makes that much easier for parties to work with.
135. But we have a big problem with the idea of caps on expenditure in the meantime because I do not believe there is evidence of an arms race. There is a lot of talk about the spending arms race. You can do a lot of different things with the statistics which will give you a lot of different answers. But there is certainly not an absolutely compelling case that there has been an arms race.
136. So we are sceptical about the value and indeed the appropriateness of a cap on expenditure and we are sceptical about additional state funding. But

in the course of those discussions we said quite frankly that if we can get a settlement that is genuinely sustainable, that promotes the proper involvement of people and organisations in political parties and that serves to re-establish a wider degree of public trust in the process, we would go along with it, but without enthusiasm for those elements of it. We think it is a price worth paying for a settlement.

137. SIR CHRISTOPHER KELLY: Thank you. The coalition agreement includes a commitment to make progress in this area. Before you were in the room Sir Hayden said that if the main political parties were prepared to behave in a grown-up way, it ought to be possible to reach a solution in the next 18 months or so, which would probably involve most sides swallowing some of the objections they have to it. Do you think the will is there and, if so, what would it take to turn that into an actual consensus?

138. FRANCIS MAUDE: What has changed since 2007 when this process ended is that the appetite for additional state funding will have pretty much evaporated. I am trying to imagine a worse circumstance in which you could propose the idea of additional taxpayer funding for political parties. It is quite hard to imagine how there could be a worse circumstance than this: a fiscal crisis with actual public spending cuts needed. Frankly, whichever government had been in power, with trust in politicians being at a low level following the parliamentary expenses issues, it is not a good time to be doing that.

139. The conclusion that was reached was that additional state funding was an essential component in reaching agreement, not from our point of view, but we would cheerfully make a settlement without additional state funding. If that can be achieved without additional state funding, then something very serious and special will have been achieved.

140. SIR CHRISTOPHER KELLY: I understand what you say but, if it is true, that implies the commitment in the coalition agreement to do something about this is dead in the water, does it not?

141. FRANCIS MAUDE: Let us see whether there are other ways of achieving it. It is difficult but let us see.

142. SIR CHRISTOPHER KELLY: Is this a transitional problem? When Sir Hayden was interviewed on the television this morning and was asked the same question, he drew attention to the fact that he had proposed a long transitional period and that, after all, the new government has a plan to return us to structural surplus when some of these issues will be easier. We are talking about the longer term, not necessarily this year or next year.

143. FRANCIS MAUDE: Yes, that is the territory where there could be serious scope for making progress. It would probably need to be a longer transition than was envisaged for exactly those reasons. My recollection of the transitional arrangements that Sir Hayden proposed, into which a lot of work went, is that they ran over a relatively short period, something like three

years, with the additional elements of state funding coming into the process fairly early. Those are the elements which are most difficult. But we should. There is a chance to achieve a long-term settlement, but it may take longer than it would have done to reach the end point. The journey from A to B might need to be longer.

144. SIR DEREK MORRIS MA Dphil: Good morning. It is clear from the history and indeed from what Sir Hayden said to us earlier this morning that a quite critical issue in all of this is the question of trade union donations. I would like to ask you a few questions in that area. Perhaps I could start by asking you to describe to us the current Conservative Party view on how that aspect of donations should work.

145. FRANCIS MAUDE: If there were to be, say, a £50,000 cap on donations, the issue on which we reach stalemate is about the treatment of union affiliation fees. It is fair to say none of us understood that issue very well at the beginning of the process and understood rather better by the end. The issue was entirely about what test affiliation fees need to meet in order to be disaggregated and thus fall below the £50,000 cap. Affiliation fees are, if I recollect correctly, £4 a head. Obviously, if they are treated as individual donations, they fall beneath the cap with no problem. It was accepted by everybody that donations by unions which were not purporting to be passed through affiliation fees would be caught by the cap anyway, so a block donation would be caught in any event. Everyone agreed with that.

146. The concern we had when we delved into how the system actually works in practice was that the law suggested the requirement was that union members have the right to opt out of paying the political levy. It turned out to be in reality a fiction. In the case of most unions, it is incredibly difficult. There is no effort made to tell people that they have the right to opt out and no effort made to tell them that they pay a political levy or that there is anything to opt out from. Also, even if you do find out how to opt out, you would not pay any less money, so this is a completely bogus in reality for most unions with some honourable objections.

147. A curious phenomenon became apparent during the discussions with an extraordinary number of unions that disclosing that 100 per cent of their members are affiliated members of the Labour Party by not opting out of the affiliation fees. There were two, as far as I remember, who disclosed that more than 100 per cent of their members were affiliated Labour Party members, which is a concept startling to most of us and never fully explained. We also had an interesting disclosure in the latter part of the discussions, which coincided with Labour's deputy leadership election. A Liberal Democrat MP received a ballot paper to vote in Labour's deputy leadership election because, completely inadvertently and unknowingly, he had become a member of the Labour Party through not having opted out of the political levy. That is a completely absurd position. It became apparent that what the law seems to say is the requirement - that a union member should have the right to opt out - is a sham.

148. My starting point was in the course of the discussions was to tell Labour that presumably it has no objection to there being an actual requirement that on the face of the membership application form or the front page of the website there is a box which says what the political levy is and gives members on an annual basis the right to opt in or out of paying it. Whether it is to opt in or opt out is important but, arguably, secondary. When Labour said that it could not even discuss it, it became apparent that we were not going to get anywhere. If we had agreed a cap on donations of £50,000, unions would have continued to make block donations from the proceeds of affiliation far above that without any constraint at all. That would not have dealt with the perception of the big donor culture and big donor influence. That was a real block.

149. Our view so far as affiliation fees are concerned is that we would want opting in, not opting out. We would want union members to have the right to choose which party was the recipient of the political levy. All the polling shows that slightly less than half of union members actually vote Labour, yet in the case of many unions 100 per cent of their members are paying donations to Labour. It cannot be right. That is indefensible. Our view is that this needs serious reform as part of an overall package. But the fact that we were not even able to discuss what people are entitled to assume the law is at the moment and to make a reality what the law says - that there is an actual right to opt out - meant that we were on a wholly different page.

150. SIR DEREK MORRIS: We will get a chance later this morning to press a representative of the Labour Party for their views on that. But pursuing the stance of the Conservative Party, you mentioned a rather telling phrase. You said that opting in or opting out was perhaps a more secondary consideration. Correct me if I am wrong, but does that suggest there might be from the Conservative Party's point of view a solution or a way forward - provided a number of other aspects to do with the clarity with which you are given the opportunity to opt out, the ability to specify which party, et cetera, were addressed - that was nonetheless an opt-out solution, not an opt-in solution?

151. FRANCIS MAUDE: There is a lot of scope around this to try and find a workable solution. It is very technical. The conclusion we all reached was that just passing a law on this does not take the trick. There was a law passed and it is totally ineffectual in ensuring that union members do have an effective right to opt out. This needs to be absolutely worked through in a great deal of detail and not on the back of an envelope. It needs to be made watertight because we do not want to be coming back in five years thinking we have a solution which has not been a solution at all.

152. SIR DEREK MORRIS: I recognise that this is a very heroic assumption at the moment but, if that were addressed, would such an opt-out system be a sticking point for the Conservative Party?

153. FRANCIS MAUDE: We would want it to be an opt-in system but, again, we need to look at this in the round. It is quite hard to say that this part is negotiable and this part is not. The conclusion we all reached, having ended

up knowing much more about this than any of us ever expected, is that this has to be looked at in the round. There are a lot of interlocking parts, all of which have to be dealt with comprehensively. I would not want to be in the position of saying that that part is negotiable and that part is not. It has to be something that says, to come underneath the cap, this is in reality a voluntary individual donation of money to a party. If it does not meet that kind of test in reality, with the law and regulation being put in place that gives real confidence that that will be enacted and effective, you still have a massive problem.

154. SIR DEREK MORRIS: I fully take the point that each part of this has to be seen in the context of every other part and indeed it is a point that Sir Hayden emphasised to us earlier this morning and was an element in his previous approach. From our point of view, in considering whether this Committee can offer any assistance to the process - which Sir Hayden felt was ultimately a matter of the political will of the parties - it is important for us to know whether there are any absolute lines on the sand. I want to press you on whether an opt-in system is an absolute prerequisite for Conservative approval or not, if the overall package looked right.

155. FRANCIS MAUDE: I am going to be disobliging and not answer the first part of that. The key point is that this has to be, in reality, a voluntary individual donation to a party. You have to go through a lot of internal processes within the unions before it actually gets to the party. We would need to satisfy ourselves that the arrangements were capable of being effected to make that, whatever the other parts around it, genuinely a voluntary individual donation to the party.

156. SIR DEREK MORRIS: If the system amongst other things involved members being asked once a year if they wished to opt out and would pay less if they said no, as long as the rest of the package worked, is that something the Conservative Party might find acceptable?

157. FRANCIS MAUDE: You have to have the choice of party in there. That is an essential element. If you have the element of choice of party, it is quite hard to see how that is opting-out. You would have to opt for one party to receive it. I am the wrong person to be asking about this. You are talking to Jack Straw after me.

158. This is what this foundered on. Despite Sir Hayden's heroic attempts and the extremely sinuous negotiating skills he brought to bear on all of this, that is what it foundered on. If you can make any headway with the Labour Party, that would be great. I do not quite understand why the Labour Party is so against opting in, unless it is to enable a continuation of the status quo. It is not even inertia selling because people do not even know it is happening. If you get the whole thing really visible so that there is a real choice for people, whether it is opting in or opting out becomes much less important. You have to have some act of will involved.

159. SIR DEREK MORRIS: In terms of a cap on individual donations, what should that cap be? There was obviously a lot of discussion around the £50,000 figure. If a package solution was proposed in which the figure was significantly lower than that, would that represent in itself a problem or is that something that might be acceptable within an overall package?
160. FRANCIS MAUDE: That would be a problem. There is no science in £50,000 but it was a point where actually all the parties, roughly, ended up. Particularly if you have enough people who are giving sums around that amount, you could genuinely show that you do not buy influence by giving £50,000. I know it sounds like a lot of money and it is a lot. But parties need many millions to operate and £50,000 is a very small proportion of what a party needs. You can make and sustain the case that £50,000 being paid to a party does not buy influence.
161. LLOYD CLARKE QPM: Good morning. Donations is one side of the coin. Expenditure is another. I know we do not have the figures yet for the 2010 election. You may want to tell us whether you spent more or less than in 2005. Recognising that time is short and that we are not trying to find solutions today, from the issues in the draft agreement, was there a showstopper in terms of expenditure and differences between yourselves and the other two parties?
162. FRANCIS MAUDE: I am trying to cast my mind back. It is three years ago now. There is quite a lot of water under the bridge. We had all reached the point where we were probably not comfortable with the levels but we concluded that we could probably live with them. The level we ended up with was too low.
163. LLOYD CLARKE: £150 million over the five-year period of the parliamentary term?
164. FRANCIS MAUDE: Yes. It is a regulatory nightmare trying to enforce an expenditure cap because all the parties are constituted in different ways. Some are more centralised and some less centralised. What is campaigning expenditure? How do you count expenditure? Is it what is paid for someone's coffee morning or garden party? Is it the turnover? Is that expenditure for these purposes? There will be lots of functions which are partly fundraising but may have some political purpose as well. It is a hideous nightmare to try and get this defined and effective.
165. The conclusion I reached was whether this was worth it, particularly when a huge amount of the burden of compliance, with what would inevitably be an incredibly complicated regulatory system, falls on volunteers. Part of what we are trying to do is broaden engagement and broaden participation. We all know the issues in the voluntary sector more generally with people being deterred from volunteering because of compliance burdens. If we can find a solution that does not involve getting into this territory, that is a big prize.

166. With what Sir Hayden was drafting, we ended up having state funding to support the compliance function and to deal with the regulatory system that was being proposed. It looks ridiculous if you are going to have this very complicated system and then, because it is going to make volunteers' lives impossible, use money to employ people to deal with it. If we can find an answer which addresses public concerns without getting into that territory, let us do it.
167. LLOYD CLARKE: That is helpful. There is a body of work which suggests that actual spending is coming down and has come down over the years. I do not know if that is your view of the last election in May 2010, but do you feel that the expenditure you as a party had impacted decisively on the outcome of the last election? Is there such a close connection between expenditure and the actual result, particularly in marginal seats?
168. FRANCIS MAUDE: Not huge. Let us take it in two parts. I do not know what we spent in the last election. I was not involved in the campaign in that way. Expenditure is coming down generally and that is because there is not the money around any more. The transparency introduced following the recommendations of your predecessors has been very effective.
169. There is a broader issue I would like to touch on about how do we, the polity generally, convey the sense that giving money to political parties is not an inherently grubby activity, that parties are essential to a functioning democracy and that supporting political parties is as much a public service as supporting a broader charity. If we are going to make a success of a working democracy, it will be difficult but it is really important that that sense is generated.
170. It has been much more difficult for parties to raise money, so parties spend less. The Conservative Party, when I became chairman five years ago, had a fairly ugly-looking balance sheet in terms of its net debt. That has been, broadly, sorted out in the meantime. There is a financial discipline, certainly within the Conservative Party because we cannot just borrow our way through difficulties, that has not always been there. The difficulty of raising money has brought its own discipline. Political parties now think much more carefully about what they spend their money on. The days when you just throw money at billboards because it is something you can do have gone.
171. In marginal seats, again, if we are serious about broadening engagement and participation, to suggest that an active and energetic local candidate who is successful in getting lots of people to contribute to his or her campaign funds should be prevented from spending that money seems to be against what we are trying to achieve. Being able to raise money and spend money in target or marginal seats generally goes hand-in-hand with a candidate who is an effective candidate.
172. If your question is whether you can make up for an inadequate candidate with a load of money, the answer is absolutely not. Can an effective candidate who has engaged a wide group of volunteers and generated serious

activity in the area multiply that effect by spending some more money, yes, and they should be able to.

173. DAME DENISE PLATT DBE: I want to come back to the issue of state funding and expenditure. The chairman has covered quite a lot of the territory that I wanted to get into. I was interested in your answer that you were prepared to consider it for the sake of the deal at the time. This is about winners, losers and negotiations. Is there any merit in the state funding of political parties at all, from your perspective?
174. FRANCIS MAUDE: Of course, there is state funding already. Some of it is overt through Short money and so on. Some of it is in kind through free post, party election broadcasts, et cetera. All of that is effectively state funding of political parties. This is only a matter of degree.
175. There might be scope in the field of tax relief, potentially. I have not consulted my colleagues in the Treasury about this. I am freelancing here. The one recommendation in Lord Neill's committee report that did not get implemented was the recommendation that there should be limited tax relief on donations. That is worth exploring. One of the goals everyone shares in this is to broaden participation and to spread the source of funding more widely than it is.
176. We have not in this country made a success of the internet fundraising that has worked in the United States on both sides of the political divide over some years now, going back a decade. For reasons I do not understand, it has not worked here. Maybe we are just not quite ready for a different culture. At some stage it will but not yet.
177. In the field of state funding in Sir Hayden's inquiry, we were consistently much more interested in support in the tax relief/matched funding area, much more than the standard so-much-per-vote combinations that were discussed. That is the only territory where there would be any prospect of agreement.
178. DAME DENISE PLATT: Listening to what you said about some of the trade union donations and how the donation needed to be voluntary rather than compulsorily levied or required, is that also a principle that leads you towards the tax relief type of solution?
179. FRANCIS MAUDE: Apart from the arena we have talked about affiliation fees, donations are voluntary. I would be surprised if anyone dissents from this, given that political parties have to exist and given that they need money. It is better that they have money from a lot of people. We are not going to go back to the days when the Conservative Party had five million members, sadly.
180. DAME DENISE PLATT: Do you have a view of where there is not a massive membership base?

181. FRANCIS MAUDE: I do not, really. I have wrestled with this with the party chairman about whether there are ways of generating it again. At the risk of sounding pathetically defeatist, I am not absolutely sure that those days will come around again. There will be different ways of participating, other than being a signed-up member. The Conservative Party has explored some of them. Some have worked and some have not. There are possibilities around social media and ways of encouraging broader engagement where the answer probably lies, though I do not think anyone here has cracked it yet.
182. DAME DENISE PLATT: One of the arguments about state funding and the matched funding Sir Hayden was putting forward was that that would extend the interest and the commitment. Is that a view you might share?
183. FRANCIS MAUDE: Yes, absolutely. If there is any territory worth exploring, it is that. It is not just a subsidy to the party. It is promoting something which is in the broader public good: broader engagement in our democracy.
184. DAME DENISE PLATT: In a way, you have to earn it as a party and as a candidate to your cause and your commitment.
185. FRANCIS MAUDE: Yes.
186. DAME DENISE PLATT: I want to ask you about referendum expenditure.
187. FRANCIS MAUDE: About which I know very little, I am afraid.
188. DAME DENISE PLATT: We hear that there may be a referendum over the next year or 18 months but certainly during the lifetime of this parliament. Are the current funding rules around referendums and campaigning for referendums fair?
189. FRANCIS MAUDE: To be honest, I do not know enough about them. I should have been better prepared, but I am not. If I may, I will make sure we submit a note to you on that specific issue. I am not willing to freelance on that one.
190. ALUN MICHAEL: May I ask a couple of questions about what you said earlier about ways of escaping the impasse? I was intrigued by one thing you said, which was basically let us see. You offered an opportunity for the Committee to pull a rabbit out of the hat, which we might or might not be able to do, but you also suggested that there might be other ways of reaching the desired outcome. That is where you said let us see what emerges.
191. What are the options as you see them? What are the areas that have not been explored that perhaps should be in order to find a different way forward? Very specifically, are you committed to achieving an agreed outcome?

192. FRANCIS MAUDE: We have always said that we think these matters should be achieved by consensus. That has not always been the case. Frankly, some of the things put through in the last part of the last parliament were not agreed and were not achieved by consensus. That was regrettable.
193. On the whole affiliation fees issue, the difficulty was that the approach was to look at the position at the moment and see what changes need to be made to make it acceptable. If there is a chance of breaking out of this, you need to start at the other end and start with what we have to achieve, which is something obviously and plainly a voluntary individual donation to a party of the individual's choice. If that is what you need to achieve, work back from that. What needs to be in place to ensure that that is the case?
194. ALUN MICHAEL: My other question is about other ways of enabling members of the public to engage in the public debate and the comparison of the parties and the individuals between their voting. I am sure you would have some sympathy with the idea that an enormous amount of voluntary effort goes into designing and delivering leaflets which probably find themselves in the recycling tray as quickly as the pizza delivery advertisements. In general, people do not see the effort that goes into that.
195. Are there other ways of encouraging participation? You referred to free post as one way that an equal opportunity is given to different parties. Are there other ways to create spaces where parties can set out their stalls? Should we perhaps look at the state taking a lead in creating hustings opportunities? Should electronic hustings be given an opportunity? Do we need to change the way we look at this and the funding of campaigning activity that perhaps is not very effective compared to the nature of a media debate and look for different ways of getting to the comparison of policies, manifestos and personalities?
196. FRANCIS MAUDE: In a way, we have come to do that. The leadership debates in the last election had an electrifying effect. They were very risky things for party leaders to agree to because they had never been done before. The things which do not involve huge expenditure changed the dynamic of the election. That was beneficial. It was a very open thing to do. There are lots of things worth exploring which will need in the current environment to be cheap and cheerful, but we should not be too limited by that.
197. One of the things the coalition is committed to doing is funding a limited number of all-postal primaries for the selection of candidates. That is not a cheap thing to do, which is why it has to be very limited in scope. The Conservative Party in the run-up to the last election had all-postal primaries in one or two candidate selections and it was very enlivening and engaging for people, but it is expensive. If you wanted to be very radical, you might think about whether we should in the longer term move to people being able to be on the electoral register as registered supporters of parties to enable parties to do primaries much more easily. That sort of territory is difficult in our system. It works in different ways in different states of the United States.

198. ALUN MICHAEL: And in Germany, to a degree.
199. FRANCIS MAUDE: But you also have only two parties there, which makes it simpler. We have a multiplicity.
200. OLIVER HEALD: I do not know if you explicitly made this point, but it is an important statement in itself to give tax relief for political donations if they are treated in the same way as other good causes. It might help in the engagement point you were making about trying to persuade people that it is a worthwhile thing in itself. Is that part of your thinking?
201. FRANCIS MAUDE: Yes, it is. To get back to the point I made earlier, after the row there had been, the changes put in place on things like loans have been very effective. We did not have major issues on this in the run-up to the last election, which is when these things tend to be sensitive. It is a really important goal that giving to political parties is not seen to be disreputable but a good thing to be doing. It contributes to an important public good. You are absolutely right. It would send that sort of signal.
202. OLIVER HEALD: In the last talks, the Liberal Democrat view was that there should be a clear and traceable link between an individual decision to give money and the money going to the Labour Party in terms of affiliation fees, which sounded similar to the point you were making. Was there any element of disagreement over the idea you mentioned earlier of being able to send money to political parties other than Labour? Was that something the Liberal Democrats agreed with?
203. FRANCIS MAUDE: My recollection is that they were in broadly the same place we were and had the same sort of concerns. You will have to ask David Heath, who was present throughout, as I was. It was a marathon event.
204. SIR CHRISTOPHER KELLY: We will. You made clear that tax relief or matched funding is a lot easier for you than straightforward state funding, even if it has the same effect. Whether that fills the hole left by some of the other measures in a package would depend on how many people you get to contribute. How much scope do you think there actually is to generate more income through the additional donations that would be stimulated by either a tax subsidy or matched funding?
205. FRANCIS MAUDE: The first point is that there will still be a lot of contention around introducing tax relief or matched funding. This is not a given. It could be agreed.
206. The second point is that a combination of a cap on donations, which signals strongly that the really big ticket donations are no longer available, with a big incentive for the parties to become creative on this would give quite a lot of a scope. How much I honestly do not know. But when you think that plenty of organisations get donation subscriptions of £15, £20 or £25 a year from over a million people, it is hard to see that this needs to be very limited. There

is a lot of scope but I do not know how much.

207. SIR CHRISTOPHER KELLY: The final question is the obvious one. You have made clear how difficult you think it will be to find a solution, yet as part of the coalition you are committed to finding one. Do you think it would be helpful for this Committee to get involved as part of the process?
208. FRANCIS MAUDE: It is worth a try. I would echo Sir Hayden's view that this has been endlessly analysed, a lot of work has been done and a lot of us know much more about this than we ever wanted to. The one thing worth having a try at is the affiliation fee issue. If you could find a solution for that, it might unlock a lot of other things.
209. SIR CHRISTOPHER KELLY: If part of the solution was more state funding, even if it does not happen immediately, that might actually come more easily from an independent review than from an agreement between the parties.
210. FRANCIS MAUDE: I do not think you should underestimate the potential public hostility to that.
211. SIR CHRISTOPHER KELLY: I do not think we will. Thank you very much. We are now going to take a short break and resume at 11.30am.
212. Our next witness is the Right Honourable Jack Straw MP, speaking on behalf of the Labour Party. You are very welcome. Thank you. The Labour Party manifesto says, "We believe that the funding of political parties must be reformed if the public is to regain trust in politics". For the record, could you say why you take that view?
213. RT HON JACK STRAW MP (Labour Party): As previous witnesses have pointed out, there was real and profound concern by the public in the state of the body politic. It was not mainly at the time about the funding of parties. It was about MPs' expenses, about which your Committee is very familiar, Sir Christopher. But we felt it went wider than that. We also felt that there was unfinished business from Sir Hayden Phillips' inquiry, which you have gone into.
214. If I may say so, our belief has been that we need to complete the implementation of the fundamental principles set out by your predecessor committee in 1998. They had two fundamental principles. One was transparency and the other was spending limits. There is a much higher level of transparency than ever there was in the past, as all of us who have fought elections before and since can testify.
215. On the issue of spending limits, there are and have emerged serious gaps in the regime that Lord Neill's committee set up and which I implemented. They have arisen principally because of the practical and technical difficulty in running a continuous spending limit back from an indeterminate date, namely the date of the following general election. The

limits for the so-called short campaign, which is once the whistle is blown, are clear. Lord Neill proposed limits on national spending running for the 12 months preceding the election but the legislation is very complicated. Following a lot of discussion after Sir Hayden's inquiry, I published a White Paper and proposed legislation which proposed limits on what was described as the long campaign, which is the last five months of any five-year parliament. But we did not know how to solve the conundrum of a less-than-five-year parliament. Fixed term parliaments now mean that you can do that and we want to see comprehensive and continuous limits. There is no reason why that cannot be done.

216. The other thing has changed, which is a paradox, is that in the last decade elections and campaigning have become much more explicitly national with the local level playing a lesser role. It has now turned, rather, and the division between national and local is now much more fungible, not least because of the internet. A lot of national spending, rather than being spent on advertising, is now directed to personalised mail at an individual marginal seat level. Those are the key things and no doubt you will ask me about donation limits in due course.
217. SIR CHRISTOPHER KELLY: You can safely assume that we will. I will begin with a more general question, though. As was obvious from the previous witnesses and as you acknowledge in the memorandum you gave us yesterday, for which we are very grateful, these are very difficult issues. Talks broke down in 1997. In your view, is there any prospect of the main political parties responding to Sir Hayden's invitation to behave in a grown-up fashion and make some necessary compromises in order to reach a sustainable solution?
218. JACK STRAW: I see no reason why not. I have a lot of experience in doing this. It will be recalled that party funding was quite a partisan issue in the run-up to the 1997 election. We asked your predecessor committee to produce its report and it fell to me to implement it. There was broad agreement and it was a very good report, but I bent over backwards to ensure, notwithstanding that the Conservative Party had been very roundly defeated in the general election and there was no possibility of them mustering troops to stop us doing what we wanted, that at no stage did we act in a partisan way. I think that gave them some confidence that we were not going to use our majority to weaken them and undermine their base.
219. Then we had the difficulty in 2007 and I have set out for the record for you about what happened there. All parties were trying to get to an agreement. We and the Liberal Democrats thought we were close. It was quite a big ask for the Labour Party, but we were ready to seek to implement what was in that draft agreement. Anyway, it did not happen.
220. After that, I produced a White Paper on party funding. That led to the 2009 Act with some further improvements. I will check the record but, notwithstanding what Francis said a moment ago, my clear recollection of the passage of the 2009 Act is that, whilst they objected to parts of the Bill as

originally proposed, they certainly did not vote against it in its final form. Again, I worked hard to get to a broad consensus, so we will certainly participate in talks and try to identify that.

221. As a last point, it has to be recognised that the history, the cultures and the social and economic base of political parties are not symmetrical in this country. This is of fundamental importance and it distinguishes us from parties in some other countries. The Conservative Party, quite understandably, has a preoccupation with the income base of the Labour Party through the trade unions. Equally, there is a preoccupation in the Labour Party about something that has not been mentioned here, the fact that the income and wealth base of Conservative Party supporters is much higher than Labour Party supporters. Getting a level playing field, as it were, is very difficult.
222. One of the preoccupations of my colleagues in the last parliament was the so-called Ashcroft money, which was not properly regulated and meant that sometimes hundreds of thousands of pounds was being directed into individual marginal constituencies because of the much higher income base that the Conservative Party intrinsically enjoys. It is not that there was evasion but there was no regulation of it.
223. SIR CHRISTOPHER KELLY: I do not want to get into details at this stage because we will come on to donations in a minute. You said that what was on the table in the course of the Sir Hayden discussions was a big ask for the Labour Party. For the record, in what areas?
224. JACK STRAW: I will tell you why. Understandably, the Conservative Party has a different view about the role of trade unions in British society from the Labour Party. Margaret Thatcher, who famously was not consensual, had a very large agenda seeking to regulate and reduce the power of the trade unions during the 1980s. A lot of regulation went through to do that, including in respect of the political levy. The Conservative Party was not remotely interested in a consensus on this. It just decided it was going to “reform trade unions” and they did. That was consolidated into the 1992 trade union and employment legislation. When we came in, we decided not to change that and to accept that as the status quo. Trade union finance, including donations to the Labour Party, is more transparent and more highly regulated than any other area of donations.
225. If you look at the issue of complaints and scandals, there have been no scandals about trade union funding of the Labour Party. If you do a cuttings check, notwithstanding the focus this morning, what scandals have led to public concern? Not the trade union funding. It is very transparent. People may disagree with it and there could be areas of improvement, but it was not that that led to the establishment of Sir Hayden’s inquiry. It was cash for peerages, nothing whatever to do with trade unions. Subsequently, the other scandal was about David Abrahams and his large donation to the Labour Party, which was about evasion or avoidance of the transparency regulations, nothing whatever to do with trade unions. There is a sensitivity in the Labour

Party to a gratuitous opportunity to take a pot-shot at a fundamental part of our funding base.

226. I also have to say, intellectually, I have a difficulty with the principle of donation caps for the reasons set out in Lord Neill's report, which the Conservative Party also accepted. They create a bigger problem than they solve because we will get avoidance on a great scale, which is what happens in the United States, or we will have to have big state funding. But we were willing to swallow hard both of those in the interests of an overall deal. It took a lot of heavy lifting but that was where we ended up.
227. DR WOODS-SCAWEN: Let us unpack donations a bit more, if we may. Starting with the cap, when the Labour Party gave evidence to the Lord Neill committee, the party's position was against the cap. You indicated that you ended up there with some heavy lifting.
228. JACK STRAW: We subsequently ended up there, yes.
229. DR WOODS-SCAWEN: Could you describe the journey and, in particular, the rationale for being against the cap and how accepting a cap fitted in your vision of an overall deal?
230. JACK STRAW: If you are asking me intellectually whether I think caps are the answer, my answer is Lord Neill's answer, which is that they are not. I have thought about this a great deal. I think the answer is what Lord Neill set out, not just because he set it out but because the case was made very cogently. The answer is to trap high levels of transparency. As Francis Maude himself acknowledged, the system has advanced. There are still some problems to sort out, but it is light years better than it was a dozen years ago. Also, I have already spelt out the lacuna on comprehensive spending limits, which we can now solve because we will have fixed parliaments.
231. Why am I sceptical about donation limits? They lead to avoidance. In the United States, there are strict limits on donations. I have actually been in the room with some wealthy donors for a candidate and just happened to be standing there while they were discussing how they were going to go to a fundraiser. Each member of the wealthy family was going to donate up to the limit. It is a bit like tax law. You will get gaming of the regulatory system. The more you seek to control, the more gaming there will be. Obviously, as with tax law, you have to make your own judgement about the balance of advantage, but what has come out in the United States is that they cannot regulate spending, which is what they want to do. That is the mischief in the United States. They have had to do it using the proxy of trying to regulate donations and it does not particularly work.
232. If you bear down too much on what an individual may want to give to a party, you end up with the use of third-party front organisations and you cannot control those, ultimately. You would be controlling individual front organisations. In a free society you cannot stop people forming whole series of front organisations. The Life of Brian sketch comes to mind about the

People's Front of Judea, the Judean People's Front and so it goes on. I would need to be convinced, and so would my party, that you would end up with fewer problems.

233. If you have a donation limit, as the Ministry of Justice iterations and exemplifications show, right down to £5,000 or £1,000, the complications of multiple donations become such that you probably would bear down on some of the big donations. But you are then straight into the issue of state funding and that is unavoidable, unless you can come up with a brilliant scheme that no one has thought about, Sir Christopher. Trying to get that through a sceptical public at the moment would be very difficult.

234. DR WOODS-SCAWEN: I would like to come back to the whole anti-avoidance issue in a moment. If there were no cap or a significantly higher cap to get around the problem, how would you respond to the challenge that we have moved now to a situation where, justified or not, there is a very strong perception that there is an amount of money that buys personal advantage?

235. JACK STRAW: I would rather that that be out in the open, first of all. I would rather know that Individual X has given money or that Trade Union Y has given money than not know that Individual X has passed it up amongst his friends and relations or that Trade Union Y has passed it up through a series of front organisations in smaller amounts. The truth about the scale of the donation is the first important point.

236. Secondly, of course I understand the issue of perception, but I think both witnesses this morning and even Sir Hayden said that it was more an issue of perception than reality. Speaking from a trade union point of view, even if the trade unions were banned from giving any money to the Labour Party, they would still be connected to the Labour Party because they are part of our history. In the government in which I served for 13 years, some of the things we did were consistent with their own policies because we are on the left and so are they. There are plenty of things we did which they did not like. We did not touch the Conservatives' trade union legislation to any significant degree. There was a rumbustuous relationship with them.

237. On the Conservative side, if there is transparency, you cannot then have allegations of backdoor influence. The objection to Lord Ashcroft was not that he was giving £1 million or however much it was. It was partly his non-domicile status, which has now been resolved. Critically, at a local level, where there was no regulation of local spending as there was of national spending, as a wealthy individual he was able to direct substantial funds which were shifting the ground unfairly. But we need to recognise in this country that our politics is fairly clean and public administration is very clean. That applies to all the parties.

238. DR WOODS-SCAWEN: The public perception may be less about influence and more about honours.

239. JACK STRAW: Yes, that is true. So far as non-peerages are concerned, the system is now full of checks and balances. Even the Prime Minister of the day has remarkably little influence, as he used to complain to me. And on the issue of peerages, well either they are explicitly political but they have got to go through the vetting of the Honours Committee or they are of the non-political, the great and the good. So I think those days have gone. Within government, and I am absolutely sure this will apply under this government as it did under ours, Ministers as well as senior officials are fantastically careful not to get into any implication of special pleading for interest groups and so on. The fact too, again, of transparency, freedom of information, has totally changed that landscape, you cannot cover things up.
240. DR WOODS-SCAWEN: Turning to the anti-avoidance point, how serious is it the risk that front organisations will be set up. For example, if you had an opportunity to have a donation which was above the cap in your constituency, would there be a serious opportunity to direct it to the Friends of Jack Straw rather than to the Blackburn Labour Party?
241. JACK STRAW: In my case, of course not. But if we can leave aside my own - how can I say I have no friends - constituency, speaking more in the abstract, there will be those temptations. As I say the system can be gamed, it took quite a lot of effort and publicity about some, as it happens, Conservative front organisations, like the Midlands Industrial Council and one or two others, which were used as front organisations for funding. They avoided the need for transparency because the front organisations declared what they were giving but they did not have to declare who their donors were. So it was a like blind trust. Anyway, that was part of the purpose of the 2009 Act. You will get gaming. You will certainly get a situation where big donations are chopped up. How do you detect that or if, say, you set a limit of X and somebody wants to give ten times X, well you might decide to contract to give ten times X in one year, ten times X over ten years. I personally just wonder whether it is worth the candle, which is where Neill got to.
242. DR WOODS-SCAWEN: Can I turn to trade unions? Rehearsing what we heard from Francis Maude around my understanding of the Conservative position, it contained a number of elements. The first is to be able to track the individual donations through into the aggregate political donation from the trade union. The second was an openness so that trade union members are aware of their opportunity. The third was to make sure there was some real financial consequence if members decide not to pay the political levy. The fourth is to have a range of parties to which individuals could choose to channel their donation. How would you respond to that package?
243. JACK STRAW: All right, on the greater openness, first of all it is not the case that the fact that people can opt out is a secret because about 10 per cent on average do opt out but it varies significantly, and I speak from memory here but we have got the data, between one union and another. In some unions it is quite significantly higher than that and so people are aware of it. We accepted that there could be better information provided and that is really reflected in the first section of Sir Hayden Phillips' draft agreement.

244. This is where the question of the asymmetry of political parties arises and what I, and other party representatives also, are wholly opposed to is using the battering ram of a government's majority for the time being to change the constitutional arrangements of an opposing political party. That is totally anti-democratic and completely unacceptable.

245. DR WOODS-SCAWEN: In what way do you think that they are?

246. JACK STRAW: Well, let me just say this. The Labour Party was founded in 1900 by the trade unions and with other affiliated societies like the Fabians and the Independent Labour Party, and it was a federation of organisations principally of trade unions who wished to join. As you will be familiar, there was a lot of tension between the Labour Party and the trade unions and big employers which led to the Osborne Judgement in 1909 and the change in the law which took place in 1913 to restore opting out. Then following the general strike the Conservatives - and it was a very raw social environment at that time - introduced the 1927 Trade Disputes Act to provide for opting in and then we went the other way in the late 1940s.

247. That has stuck since then. Even Margaret Thatcher accepted that opting out should be the norm not opting in. I think that if it was good enough for Margaret Thatcher, I was in the House at that stage, although she also arranged for trade union members to decide each five or ten years to ballot on whether or not they wanted a political fund, one should leave it there. On this issue of should the trade unions become collecting agents for other political parties, that would be an outrage. Like you say, should the Conservative Party become a collecting agent for the Labour Party? The individual trade unions make their own decision about whether or not to affiliate to the Labour Party. Some in recent years have decided to affiliate to other parties like the RMT Union. They disaffiliated to the Labour Party and I think it is affiliated to another party or certainly gives money to another party. It is a free country and it is up to them.

248. Quite a number of unions are in whole or in part not affiliated to the Labour Party. The Civil Service Union self-evidently are not, prison officers is not, the Unison Union has a split fund. But those unions decide as institutions whether or not to affiliate to the Labour Party or to another political party. But it would be a constitutional monstrosity to say to a union, "You have decided democratically to affiliate to Party A but, by the way, we are going to require you to be a collecting agent for Party B or Party C". That would be fundamentally to change not only the constitution of those trade unions but also of the Labour Party against the wishes and the democracy of those people. I hope I am making my point.

249. DR WOODS-SCAWEN: One further element of this, leaving aside the question of multiple parties, do you accept that there needs to be an auditable trail between the aggregate of individual donations and the aggregate of a donation to the party? Because the suggestion was that it goes in one end, gets muddled up and some other amount comes out the other.

250. JACK STRAW: We got into this because of the issue of donation caps and what you did about individual members' affiliation fees. If you go down the route of donation caps then in 2007 we accepted broadly what was in Hayden Phillips' proposal, because we had indicated - or I had - that we were up for that and the Liberal Democrats had been up for the rest of the package, and my understanding is that the Conservative Party had been and if they had continued to be then that would have been, as it were, the deal.
251. Just for the avoidance of doubt, if I may, we have not had discussions inside the Labour Party since then so I do not wish to put things on the record suggesting I am somehow taking a negotiating pitch for the Labour Party. It was accepted, and the trade unions accepted, that there needed to be a greater level of transparency than there is and some anomalies emerged. I do not think they are particularly serious, as I say they have not been the subject of any scandalous reporting and it is the trade union members who, on a regular basis, have a right to say whether they have a political fund. But of course we accept there should be greater transparency.
252. DR WOODS-SCAWEN: Final question from me. Do you think that the good of the deal justifies working hard at trying to resolve these problems, or do you think that the particular nature of the relationship between the trade union and the Labour Party is always going to make this impossible to do a comprehensive deal?
253. JACK STRAW: I do not think it is going to make it impossible, and I have spent a lot of time trying to get to a deal. In fairness, we got a very good deal in 1998 which led to the 2000 Act. We changed the law by agreement in 2006 which dealt with the problem of loans, and Francis referred to that and a lot else. I implemented your recommendations in respect of strengthening the Electoral Commission and making various other changes, including dealing with third party front organisations as I have described, and that has all be done on a consensual basis. But I think I have indicated the concerns that we have and I think it is basically a problem of perception but also this big hole in the regulation of spending limits, and here is my point, which was Neill's point too, if you control total spending and those controls work pretty well where they exist, then you control the driver for income. There will be a bit of leakage but, on the contrary, if you end up like in the United States with no controls on spending then controls on donations become very inadequate.
254. DR WOODS-SCAWEN: My colleagues will now take on the other two legs of the stool, which is expenditure and state funding.
255. SIR DEREK MORRIS: Could I just have one very quick follow up? Supposing for the reasons you have given us one remains with an opt out system and the funds raised go to the Labour Party so that if someone is either apolitical or wants to support another party they opt out, would you accept that in that situation the amount they pay must go down?

256. JACK STRAW: Yes. Since this one has been raised, it was a new one for me, I am not an expert in trade union income and expenditure, I have been trying to find out what happens and I have asked two people so it is not a survey. One says the amount does go down and the other says it does not.
257. DR VALLANCE: Morning. I think it is probably afternoon, actually. Just before we leave donations, I want to move on to expenditure, as you have emphasised and as we are aware it is deeply complicated and everything affects everything else and it is a seamless web, what if one just cuts through the Gordian knot and said, "Okay, no donations whatsoever from institutions or organisations, simply individuals"?
258. JACK STRAW: I would like to know what the effect of that would be, but the truth of it, Dr Vallance, since it would have the effect in the Labour Party's case of ending all trade union funding ...
259. DR VALLANCE: In the Conservative Party's case there are no big donations from companies and so on, there is a certain even-handedness.
260. JACK STRAW: Yes, up to a point, if I may say so. A trade union's money comes from individuals. I have been going through my direct debits recently and I pay £11 a month to the GMB Union. This is quite small beer.
261. DR VALLANCE: But it is cumulative which is what people are always concerned about and exactly the points that have been made by Brian about do these people actually support the Labour Party and, as you have said, they do not always.
262. JACK STRAW: Yes, it is an interesting point. They support the existence of the Labour Party. People have two opinions. They may decide at an election they are going to vote for a different party, and quite a lot of trade unionists do, but they may also decide that they want to see the Labour Party in business in order more broadly to protect their interests and they can make up their mind whether to vote for it when they are in the polling station. So these are not inconsistent. If, however, you have said no to any institutional funding of any kind you would have to go down the route of state funding.
263. DR VALLANCE: Okay, thank you. Could I then move on to expenditure. Was the level of the Labour Party's expenditure in the general election last time decisive really in the outcome? It is a sad thing to say to you because you would have to say, "Well, if we had a few more quid we might have made it".
264. JACK STRAW: There are some fundamentals in an election campaign, as the three Members of Parliament in this circle recognise, where additional spending may not make much of a difference. However, what is the case for all three parties is that the quality of local campaigns, including the level of activity before the short campaign, made a very significant difference on the outcome. So within the overall 5 per cent swing in favour of the Conservative

Party against the Labour Party there are some quite extraordinary differences. Now, if you are asking me why I ended up with a swing in favour of the Labour candidate in Blackburn, was it to do with money? No. But you are in a different position after 30 years than if you are starting out afresh.

265. DR VALLANCE: But to come back to your general point, you are talking about the key marginals and it is your view that actually in these marginals, which in the end make or break elections, it does make a difference.
266. JACK STRAW: Yes, and I could talk about the Pendle seat, which is down the valley from me which was one earmarked for Ashcroft spending. Astonishing sums were spent there over a long period before. You would have to do some survey work to find out what a difference it made and people may say, "Well, they also had a very good candidate" although I would say we had a good Labour candidate as well in that case. It made a difference, I am sure. I am sure the Conservative Party felt the same in 1997 and 2001 in the reverse situation.
267. DR VALLANCE: But the public's view may be, "Vast amounts of money get spent on elections and actually I do not see that it has made any difference to how I think or how I vote". Do you have something to say on that?
268. JACK STRAW: I have some sympathy for that and we need to find out. My view about how you get people to support you is you do it directly. Personalised mail can make a big difference but the more you get out - over a period, not just in three weeks - go on the doorstep, actually have meetings, because people will turn up to meetings if you organise them properly or simply stand on a box and communicate with people, the more likely they are to support you. A lot of that is free as well. However, I think you will find the evidence suggests that this additional spending can make a difference at the margin, which is how elections are won and lost.
269. DR VALLANCE: The issue about an arms race need not just mean that there is a ratcheting up of actual spending but that the parties kind of follow each other, that once one party starts having big poster campaigns then the other feels they have got to follow and we know that probably that particular one does not make a difference.
270. JACK STRAW: The posters; it is quite interesting. I can only deal with this subjectively. A lot of big 16/48 sheet posters in a constituency can affect the moral, both of the party in whose support those posters are put up and the opposing party. So it may not have much effect directly on the voter but it does on the degree of activity of the people who are door knocking.
271. DR VALLANCE: You have talked about limiting expenditure and you seem rather dubious about the efficacy of limiting expenditure?

272. JACK STRAW: If I gave that impression, apologies. I am very much in favour of limiting spending and having it on a continuous basis.
273. DR VALLANCE: It is individuals?
274. JACK STRAW: No, sorry, where I have got scepticism is over donation caps but I am strongly in favour of limiting spending. I think you will find that Hayden talked about trying to have comprehensive and continuous limits and you have got to deal with this problem of the division which was there at the time of Neil. It has now become much more fungible between what is national and what is local.
275. DR VALLANCE: How do you identify what is a reasonable level of spending for a party in that context? How much does politics cost?
276. JACK STRAW: I think you look at the history and the recent history and then you come to a judgement, and that is what Neil did. It is what I did in what became the 2000 Act. I think we should congratulate ourselves as a country that we get our politics on the cheap. There may be problems but, is thanks to the work of your Committee and its implementation, this is a system which by international standards is very good. It needs some improvement but it is not bust.
277. DR VALLANCE: I will just ask very quickly about the leaders' debates in the recent general election because you mentioned that and obviously for a lot of people that was the thing that really impinged with them. Do you think that will mean that expenditure in elections in the future will go up or down?
278. JACK STRAW: To be honest I have no idea. Certainly they had a profound effect on people's interest in the elections and on the policy debates. I was sceptical about them but I actually thought they were very good. Because the anchormen were required to be almost non speaking referees rather than taking it over, which is what these rather grand people do normally in a political debate, the public had an opportunity to hear from the leaders and policy emerged, and policy differences, so I thought it was really good. But the fundamental thing was making sure that there were rules about David Dimbleby and Adam Boulton et al not becoming participants.
279. SIR DEREK MORRIS: Just briefly a couple of questions if I may about state funding. The first is that in the Labour Party's submission to this Committee's fifth report they were rather against any increase in state funding. The submission that you very kindly submitted to us yesterday is, would you say, moderately more sympathetic to the idea?
280. JACK STRAW: Yes. If you have donation limits you have got to have state funding and everybody, I think, accepts that. The time certainly is very difficult. Francis Maude is right to say that the one proposal we did not implement from this report was the proposal for tax relief. I looked at it and was pretty sympathetic to it but there were worries about the fact that it would help better off people. Paradoxically the more the coalition was able to take

people out of tax the more that becomes true. So the one I am attracted to - this is freelancing, there is no party support for this - is that which was recommended by the so-called Power Commission, Rowntree funded Commission chaired by Helena Kennedy, which talked about the fact that there would be a box on the ballot paper. If you tick the box for the party you support that would trigger a couple of pounds' donation. It would still count against public spending.

281. SIR DEREK MORRIS: But presumably matching rather than tax credits could deal with the problem?

282. JACK STRAW: It could. It could.

283. SIR DEREK MORRIS: Just finally, on the question of this is not a very good time to be saying, "Let us have more public funding" a point Sir Hayden made this morning was that is absolutely right but if one had a long, perhaps five year, transition period so that the full amount of expenditure would not appear until five years from now when things might be very different. Do you think that sounds reasonable?

284. JACK STRAW: Yes, I do, yes.

285. OLIVER HEALD MP: If I could just ask one thing. Obviously if you are going to have either a funding cap or an expenditure cap, it is important, do you agree, that it should be at a realistic level otherwise you do encourage the sort of gaming that you mention?

286. JACK STRAW: Yes, I do.

287. OLIVER HEALD: The other point I wanted to ask you about was of course the context of these discussions with Hayden Phillips was that there would be a cap on donations. That was really the reason that it become necessary to look at having a level playing field and the difference in the structure of the parties which you quite rightly referred to meant that that involved looking at the trade union affiliations and the Liberal Democrat view was that there should be a clear traceable link between an individual's decision to give money and the money actually ending up in the Labour Party. That was a view we took in the Conservatives, I understand. The idea that the person who is giving the money should be aware of what he is doing. Do you accept that is a very important part of reaching an agreement on this or looking at it if you are going to have a donation cap?

288. JACK STRAW: Yes, two points. One is the donation cap and state funding arose directly from Hayden Phillips' terms of reference set by the then Prime Minister. So that is why they were quite explicit: "Examine the case for state funding of political parties including whether it should be enhanced in return for a cap on the size of donations." So he was put into those tramlines by the terms of reference. The second thing is, as I said, in 2007 we were up for what was in the Hayden Phillips' draft agreement at the end of July, early August, and so were the Liberal Democrats. So whether we would be still up

for that today, and I cannot say for certain because it has not been thought about or considered by the Labour Party since then and strangely we are a democracy so we would have to talk about it. We moved a long way during the course of the discussion.

289. OLIVER HEALD: My impression is that you are moving rather away from the general idea of having a cap on donations and, of course, the inconvenience that that would then create with the union link.

290. JACK STRAW: I was abroad when the Hayden Phillips' inquiry was set up; I was Foreign Secretary. Then when I moved to be Leader of the House the then Prime Minister, Tony Blair, said, "I am giving you this hospital pass [his words not mine] of political funding". By then the terms of reference had been set. Had I had any input into the terms of reference I would not have put those terms of reference down because of my longstanding scepticism about donation limits. I would have said to him, "Prime Minister, if you are going to ask somebody as distinguished as Hayden Phillips to do this you should not constrain them by the terms of reference". But anyway there we are.

291. OLIVER HEALD: The only point is that, of course, the context as you remember was that we had had the loans for peerages background and it was all about wealthy people gaining influence or honours. That was what the worry was. Is it not necessary, if you want to tackle that, to tackle the issue of a donor cap?

292. JACK STRAW: Well, some people say that. As I say, my view is that what you do is accept that there are going to be wealthy people who want to give to politics, and why not? I very strongly agree with what Francis said about the fact that we need to try and change the culture in this country so that giving to political parties is not being seedy. I do not know of any evidence in respect of any political party where a donor who has given money to a party has personally benefited or his company has personally benefited from that. Normally when somebody gives some money to a political party they have to be doubly careful thereafter it does not disadvantage their business unfairly.

293. So, yes, political parties need to be paid for; they can either be paid for by the state or they should be paid for by individuals. You control what they have to demand by spending limits. You have complete transparency and then you get people to be realistic. If somebody wants to give £100,000 to a political party, well it is far better to know that they are doing that than to have it turned into penny packets.

294. OLIVER HEALD: Nevertheless, as you have told us several times, you have signed up to the Hayden Phillips' proposal.

295. JACK STRAW: Yes, I would have.

296. OLIVER HEALD: The two final questions, you have laid a lot of stress on how the better course is to control spending. You were in the room when Francis Maude said controlling spending was a regulatory nightmare. You

probably better than anyone else, because of your long history in this area of tackling this issue, must have a view as to whether that is indeed the case.

297. JACK STRAW: I do not think it is a regulatory nightmare for a second. It was highly complicated whilst you had variable term parliaments, and that is reflected by the terms of the 2000 Act for reasons I have gone into. Fixed term parliaments, it becomes very straightforward at a national level, intellectually people may or may not want to do it but drafting legislation is very straightforward. You need, as I say in the evidence we gave, to have some backstop just in case there is a general election within the five year period, because the government loses confidence of the House. Notwithstanding what I said about the fungibility of spending between national and local, you then have to have controls at a local level as well. But, after all, the controls at a local level are already there. They have been there since 1883 so the idea is anything technically difficult about extending them backwards; we extended them back in 2009 Act for five months before the general election. So just to take them all the way through is very straightforward. I query whether you want to do it but the technical side of it is pretty straightforward. The legislation is there.

298. SIR CHRISTOPHER KELLY: Thank you. This is an issue with a long history. Attempts to reach agreement failed in 2007. Everyone is now committed to try and find a solution this time around. Is it your view that this Committee has a role to play in that?

299. JACK STRAW: I do not want to presume, if you see what I mean. I think you have to decide, and I know you will, yourself. I certainly, personally, would find it helpful. Put it this way, the last two inquiries that have been held have not advanced the arguments and I could not have produced what became the 2000 Act without the foundation of this report. Some of the changes that were made in the 2009 Act might have been made anyway but the fact that we had an authoritative report from your Committee made a difference.

300. SIR CHRISTOPHER KELLY: Thank you very much. Thank you for coming this morning.

301. JACK STRAW: I hope I was slightly less prolix than last time.

302. SIR CHRISTOPHER KELLY: I was not going to refer to that. It is always a disadvantage when someone knows a lot about their subject.

303. JACK STRAW: Thank you.

304. SIR CHRISTOPHER KELLY: Our next witness is David Heath MP on behalf of the Liberal Democrat Party. Thank you very much for coming and I apologise that we are running slightly behind schedule.

305. DAVID HEATH CBE, MP (Liberal Democrat Party): No problem, it is good to be here.

306. SIR CHRISTOPHER KELLY: Can I begin with a general question? I am not sure whether you were in the room when the previous witness said that the Liberal Democrat Party were prepared to sign up to the Hayden Phillips' proposals. Could you just confirm that that was indeed the case?
307. DAVID HEATH: That is certainly the case, Sir Christopher. It was not, as any negotiation is, exactly what we would have wanted in a perfect world but it was an acceptable compromise between the parties. Just before I proceed with answering further questions, I think I ought to put in disclaimer that I am here obviously representing my party but, as you know, I am also Deputy Leader of the House of Commons and therefore a member of the government and therefore anything I say should not be presumed to be the view of the government. I imagine the Paymaster General made the same point in his evidence.
308. SIR CHRISTOPHER KELLY: He did not but I think we took it as read. The implication of what you have just said, however, is you were making compromises and in your manifesto you suggested a lower cap than what had been in the package. We will come on to that later. Are there other areas which were a stretch for the Liberal Democrats?
309. DAVID HEATH: I think that was the key area. We would have preferred a slightly lower cap. We had some concerns about the mechanisms for controlling expenditure and the way that might work, and the extent to which it caught what we consider - and I consider still - to be a potential abuse which is still there even within an existing legislation, large amounts of nationally funded expenditure applied in local constituencies for individual constituencies where they can have a profound effect but be basically off the balance sheet as far as the returns are concerned. I think that there is still a potential abuse there which needs to be addressed. But we raised that in the context of the talks and it was not explicit, I think, in that final report.
310. SIR CHRISTOPHER KELLY: Thank you. I am sure we will come back to that later on. Having failed in 1997, a number of things having changed, including the formation of the coalition, is it your view that there is now the possibility of reaching a settlement of these issues which will both be founded on principle and will achieve consensus in a way which will prove to be sustainable?
311. DAVID HEATH: I think it is certainly possible. But then I thought it was possible in the context of Hayden Phillips' committee. I think we came desperately and tantalising close to getting a consensus view then. I would simply like to think that it is possible to reach broad agreement. I would much prefer us to be working on the basis of a consensus position rather than anything imposed on a unilateral or a combination of one or more parties effectively deciding that there is a way forward which they favour which is wholly unacceptable to other parties. I think that is not a sustainable position for the future and implies that there will be later legislation to unpick.

312. So, yes, I think there is an opportunity, I think there is a commitment on the part of all the major parties to do something about this but there we have had that rhetoric before and we have failed to seal the deal. Although I am optimistic, I am sufficiently realistic to know that there is still a lot to be done.
313. SIR CHRISTOPHER KELLY: What would have to happen to push everyone that last ten yards?
314. DAVID HEATH: One thing that would concern me is if the various parties who were engaged in the Hayden Phillips' talks were to resile significantly from the point that they had reached. I was listening obviously to some of the comments from Jack Straw and I just detected that perhaps the point at which the Labour Party had reached in those discussions was not necessarily where the Labour Party were now prepared to sign up. I may be wrong, I may have entirely misinterpreted his position but I think that would be regrettable because I think it is only on the basis of starting from a base camp as it were, a relatively high base camp which was the Hayden Phillips' proposal, so that we have a realistic expectation to progress.
315. SIR CHRISTOPHER KELLY: It must at least be possible that if people are resiling it is only because they are keeping their negotiating positions.
316. DAVID HEATH: Of course, and we all accept that negotiation positions are there to be negotiated.
317. SIR CHRISTOPHER KELLY: Yes, thank you. Denise.
318. DAME DENISE PLATT DBE: I am indeed going to come back to the issue of donations and caps. When we were taking evidence in 1998 around the funding of political parties, the Liberal Democrats were the only major party, I think, to support the idea of limiting individual donations to £50,000. Can you tell us a bit more why you took that position?
319. DAVID HEATH: Two levels. There is the potential mischief which we believe can be caused by substantial donations and that is also the public perception which I think is equally important, particularly in the context of the loss of confidence in politics over recent years. In terms of the actual mischief, I think that where parties are reliant on a small number of large donors for a significant part of their expenditure then whether it is explicit or implicit there is a danger of those donors having influence which is above and beyond what an ordinary member of the party or a donor of modest means could have. All the parties would say of course nothing could be further from the truth, these philanthropic individuals give of their money because they are committed to a political cause and have no expectation of having a knighthood at the end of the day or appearing in the House of Lords, as coincidentally some of them do but nevertheless that is not their expectation, nor do they expect in any way to influence the policies of the party. I just think there is a risk. I think there is a risk particularly when a party is struggling to find the finances that it needs in order to meet its costs in the light of a hard fought general election of discussions going on behind closed doors where there is a

nod and a wink, “Oh yes, we will certainly look at that issue of policy, and by the way would you like to put your hand in your pocket again and bail us out from our present difficulties”.

320. Now, I think that is a real risk. It is a real risk in terms of public probity. I think it is perceived, and that this is the other part of my point, to be at risk as far as the general public is concerned. They do not believe, however much parties protest to the contrary, that people who pay millions of pounds into political parties have no influence on those parties. That is corrosive to trust in party politics, in government in the case of parties who are in government, and I think that is something that we should be aware of and we should try to resist. You can do away with it at a stroke by having some sort of appropriate limit on the size of donations.
321. DAME DENISE PLATT: It is a risk and a potential or were there any particular instances at the time that made you think the risk could be real?
322. DAVID HEATH: No, I think it would be invidious to suggest any linkages. There have been some suggestions made, certainly in terms of patronage, and there are marked coincidences between the list of major donors and those who appear to receive preference, particularly for elevation to the upper house. That, I am sure, is purely coincidental.
323. DAME DENISE PLATT: When the limit of £50,000 was the limit that emerged, is that the right limit?
324. DAVID HEATH: I think that is still very high. That is the view of my party. We threw in £50,000 originally at a time when other parties were not talking about it at all. It is an arbitrary figure. Any figure that you choose is arbitrary. We threw it in to see whether there was any support from other parties. We were, I have to say, pleasantly surprised when the £50,000 was then taken up by other parties, both prior to the Hayden Phillips committee and during the course of it. Our candid view is that £50,000 is still a very considerable amount of money in the minds of most people around the country as a donation and certainly if I were to be offered £50,000 I would want to make it very explicit that there were no tags attached to that. I think a lower figure would do better in reassuring the public that there could not be any reasonable link or reasonable expectation that there was a linkage between a donation and an expected political result.
325. DAME DENISE PLATT: Do you have a view what the public might view as acceptable?
326. DAVID HEATH: As I say, it is arbitrary. Our position at the time of the general election in our manifesto was a £10,000 limit. But you can pluck almost any figure out of the air and try it for size. Certainly with a £10,000 limit it would be hard to substantiate a view, certainly in the case of the large parties, that a donation of that size would be sufficient to give real cause for concern that it was buying significant influence.

327. DAME DENISE PLATT: A cheap bit of --
328. DAVID HEATH: Very cheap.
329. DAME DENISE PLATT: Okay. I think you heard some of the evidence of Jack Straw where he was speaking against the need for a cap. One of the main thrusts of his argument was that you then entered into gaming and he gave an example from the American experience where every member of one family gave the maximum limit and cumulatively it was one group of people giving a much larger amount. Do the risks of the perception of influence outweigh the risks of the gaming and the finding ways of getting around a cap?
330. DAVID HEATH: I am going to take a rather cynical and world wary view, which is that in my experience the large political parties will use any technique that they have available to get around any rule and regulation that is applied in the area of party financing, and we have seen that time and time again, whether it is converting donations into loans and making them non declarable, whether it is splitting them between different corporate bodies in order to produce a cumulative donation which is clearly linked in everything but the letter of the law. My worry is that every time we try to regulate in this area there are clever people in party headquarters who then set their minds to seeing how they can work within the letter of the law but outwith the spirit of the law in order to provide the maximum benefit to the parties.
331. Sorry, that is a cynical and world wary view but I think it is the reality. I do not accept, as Jack appears to, that therefore there is no point in applying any sort of limit because simply people will find ways around it because I still think that the perception that when somebody dips a hand in their pocket and gives you a few million pounds that that has no influence on outcomes is not one that is shared by many people in the general public.
332. DAME DENISE PLATT: Okay. Others of my colleagues will come back to expenditure and whether the cap should be there. Can I turn to your view around trade union donations and perhaps you could just explain what the Liberal Democrat view is? It has proved to be our hottest potato.
333. DAVID HEATH: And was in the Hayden Phillips committee. It was the thing that eventually, whether you would term it a pretext or whether you would term it a reason, but it was what broke down the consensus within the committee.
334. You cannot exclude trade union funding from the consideration. It is a very major source of funds to at least one of the main political parties. We took the view, and it was very much within the terms of reference in Hayden Phillips, that whatever we came up with should not unfairly disadvantage any one party. I would stress the word "unfairly" disadvantage. So we had to have regard for the historical connections and cultural connections between the trade union movement and the Labour Party, it is fair and reasonable that we did so.

335. When we looked at this in more detail we found first of all that the affiliation system that some unions have with the Labour Party was open to abuse. That it was insufficiently transparent and insufficiently rigorous. For instance, we found unions that affiliated more members than had signed up by the opting in process. We found trade unions which were donating money in excess of what they were collecting from their membership on that basis. Now, I think that those were clear abuses and happily Jack, at least at that time, agreed with that view and the then General Secretary of the Labour Party agreed that there was a need to tighten up that.
336. I think in the case of the overall donations, I understand that if someone has knowingly, in a system where there is clear linkage and transparency all the way through the system, agreed that part of the subscription money they have paid to a trade union will effectively also be a subscription to the Labour Party and that they are affiliating by that process, I see no problem with that and I see that as an individual donation, albeit one via an intermediary body which is the trade union.
337. I differentiate between that and a large donation from, for instance, a political fund which is analogous to a donation from any other corporate structure, big business or what have you, just basically some trade union baron putting their hands not in their own pockets but in the hands of their memberships' pockets and saying, "Here you are, here is a big cheque, that will help you along the way, will it not?" That, I think, should be caught by any donation cap that is imposed. It would be quite wrong if it were in some way exempt.
338. DAME DENISE PLATT: So your solution would be to deal with those two types of donations differently but they would still be allowed?
339. DAVID HEATH: Yes, one has to be limited and whatever limit applies a body corporate in the private sector should also apply to a trade union, and as far as affiliation fees are concerned, that individual donation from a member, the key there is did that person know that was what their money was going to, did they have the opportunity to agree to that donation, is the amount that is passed on to the Labour Party the same amount as was collected from the individual member? You have got to tick all the boxes. The trade union movement is not without quite strong regulation already. In fact it is almost the most strongly regulated sector so it is curious if this is light on regulation. But the compliance mechanisms are there and I think could very easily be applied.
340. DAME DENISE PLATT: Okay, thank you very much.
341. DAVID PRINCE: Good afternoon. I would like to come back to expenditure limits, and you were with us, I think, when Mr Straw was answering on that and also talking about some of the regulatory problems that can go with it. Can I ask you first of all to tell us what your own thoughts are on expenditure limits and, if you are in favour of them, how you think they should be applied and whether you think they can be effectively regulated?

342. DAVID HEATH: Yes, I am in favour of expenditure limits. My general view is that the political parties spend too much in terms of elections at the moment. A lot of that expenditure is actually rather wasteful and badly applied. We talked about the billboard hoarding thing, I just do not think they have anything like the impact that is consonant with their cost. I think they are a complete waste of money and I think if all the parties voluntarily decided tomorrow that they were never going to put up another big poster then their electoral chances would not be diminished in any way and the public would be very pleased that that was the case. So I think there are ways of reducing overall expenditure
343. In terms of the regulatory framework, I agree with Jack entirely that fixed term parliaments make it easier. One of my great concerns when we were looking at the legislation in this area, so as to look at continuous regulation of expenditure, was the imposition that that puts on the voluntary parts of the parties. It is a huge regulatory burden on volunteer, amateur and often poorly supported members of individual parties who have the misfortune to be elected Treasurer of the constituency association, who find themselves very isolated, subject to potentially criminal offences if they do not comply with a regime which is actually quite difficult for them. One of the things that worried me about the initial proposals was that effectively they created a time which was retrospective so they were responsible for expenditure that may have happened before they were even involved with the organisation or had any potential control over it.
344. Given that we do not have a situation where all parties have full time agents who can be responsible for regulating expenditure then I think we have to be very careful that what we have is appropriate to what parties can deliver. I take a quite different view in terms of central parties, who I think have to be very careful about how they account for their expenditure, much more careful than sometimes they are. The new systems are working through now and are beginning to have an effect, and I am pleased that that is the case. But there are areas which are still - and this returns to a point I made earlier - I think, subject to abuse. The key one there is that under our present electoral system, as we all know, there a limited number of marginal constituencies where effectively elections are won or lost.
345. There is no doubt whatsoever that all the political parties concentrate significant amounts of central funding into those marginal constituencies. They know that they cannot do it within the present rules, within the short campaign, by putting out more than a limited number of mailshots or whatever relating to the candidate so what they do is, over a prolonged period of time, they pump money into those constituencies which are generic party literature, target letters by the sackload. Mine is a marginal constituency and people were reeling by the end of the campaign in my constituency. Somebody claimed that they had had 24 letters from David Cameron during the course of the campaign. This is all off limits. This is all expenditure which is not accounted for within the close confines of the accountable expenditure which

you put in a return at the end of the election as your election expenditure. So I think we still have a laxity about that which we need to address.

346. The other issue is that there is an awful lot that goes on below the radar, which is never accounted for, which again parties engage in and they know perfectly well that there is no regulatory framework which will make them properly accountable for it. I am talking about phone canvassing. Phone banks are employed by big parties to constantly right up electors in marginal constituencies either seeking canvas information or very often to push polling. American techniques of push polling, to suggest to them that there is a good reason why they would not wish to support a particular candidate and why another party might be preferable. I do not believe for one moment that that is properly accounted for. I think as IT campaigning becomes more and more the norm, that again you have the potential for a huge amount of expenditure in viral campaigning on the internet and that sort of thing to be hidden from the accounts, to be in a narrow world of regulation and not properly accountable.

347. Sorry, it is a very, very full answer to your original question, and possibly too long.

348. DAVID PRINCE: No, that is very helpful because I think you have covered some of the things I was going to ask you. Just picking up that last question about the internet and so on, and something you said at the beginning, you were saying the parties do not need to spend as much money as they do, although presumably it is going to be very difficult to get everybody unilaterally to agree to reduce that. But as the internet trends and things are coming through and money gets tighter, do you think it is inexorably going to happen anyway that people spend a lot less and spend it in different ways?

349. DAVID HEATH: I think it may do. I think it is very difficult to predict but certainly there is some evidence of changes in the way that political parties spend their money on campaigning, although having said that there were widespread predictions that the last general election would be the great IT election, the niche marketing via using techniques such as Twitter, such as Facebook and all the other social networks, would come of age. I have to say that in reality there is very little evidence to support the view that that was decisive in the campaign at all. It was a good old fashioned television debate that actually made the difference in terms of increasing voter awareness of the issues in the election.

350. DAVID PRINCE: Does that mean that the expenditure in the marginals that you described, in your own constituency and other parties, on the face of it that did not prove conclusive to the result?

351. DAVID HEATH: Yes, it is very difficult to disaggregate the different factors. If you talk to any party agent for whichever party, they are entirely convinced that there is a direct correlation between the number of bits of paper that go into people's hands and the result of an election. They will argue very strongly that unless you keep on maintaining your message

through every available avenue, and particularly in terms of paper, then you will not succeed.

352. Now, as I say, I think there is evidence that suggests that that is true but there are also cases where it is quite clear that somebody, despite being bombarded with large amounts of money, has sustained their position and has been somebody that the electoral still wants to keep. How do you take out factors such as income so it is just simply popularity of a candidate against the amount that is being spent on an opposing campaign?

353. LLOYD CLARKE: Could I ask you a couple of questions about state funding, please? First, I think I am right in saying that it has been quite a longstanding position of the Liberal Democrats so that you support state funding. Is that still the case and might I ask why so?

354. DAVID HEATH: We take a view, which is not dissimilar to that which I heard Jack Straw setting out, which is that if you have stringent limits on donations then the reality is that there needs to be an alternative source of revenue if you are to have a healthy political system. I agree with his view that generally speaking we get politics on the cheap in this country. Certainly the professional elements of political campaigning are very limited compared with the huge volunteer-funded efforts. Of course we already have state funding of political parties which you will be aware of in terms of Short money, policy development and also help in kind such as free post which is often forgotten. So, we have state funding. I think there is an argument that if you reduce income from other sources, yes, we would want to see parties cut their coat according to the cloth in terms of reducing expenditure as well but there is a case for some form of state funding. But I would argue that that should not just be the taxpayer putting their hand in their pocket doling out money to political parties.

355. LLOYD CLARKE: I think that is a fair comment and we are not seeking solutions today; it is more about the broad principles. But of course there have been a couple of changes since June 2007, notably the economic situation we find ourselves in, and of course from a public perception, the trust in politics and politicians. Is that sustainable now that public funds should come towards political parties?

356. DAVID HEATH: I repeat the case: they are doing. It is just that the public do not seem to be very aware of it.

357. LLOYD CLARKE: You are talking about additional funding.

358. DAVID HEATH: Yes, and I think it is an extraordinarily hard sell at the moment for the exact reasons you say: a lack of confidence in the political system as a whole plus the economic situation that the country finds itself. I think it is very difficult, almost to the point of impossible, to successfully sell that to the British taxpayer. I come back to the view that if you are going to do something in the medium to longer term then this has to be something that is addressed but it needs to be addressed in a way where there is a clear

correlation between volunteer donations, which in my opinion is to find either a match funding system or a tax system, although I accept what Jack was saying about the skewing of any tax credit system. That must be the right way of approaching it so that there is a direct correlation between people's voting intention and their willingness to donate themselves and for the parties to attract funding and what emerges from any state system.

359. LLOYD CLARKE: Thanks very much indeed. Could I ask one final question which takes me back to the inter-party talks and the set of final minutes there? The Liberal Democrats said - and I do not know if it was you personally - that you felt that if all party agreement could not be reached then it would be in the public interest to try and reach agreement by other means. What did you mean by the "public interest" because it seems to suggest that there is something of such import in public interest that you are advocating a non-consensual solution or were doing at that time?
360. DAVID HEATH: I was very frustrated. It was me; I will put my hand up. I was very frustrated that we had got so close, in my view, to a system and then the mood music suddenly changed and suddenly one of the parties walked away from the talks. This was in the context of what we could do to clean up politics, to restore public confidence - and I still hold this view - is that the limits on donations and expenditure were an overriding public interest issue. I was frustrated by the view that we did not have the opportunity because the view that was taken right from the start by Sir Hayden Phillips was that unless everything was agreed, nothing was agreed. My feeling was that we had a blueprint there which had we been able to present it to parliament, had we been able to have further debates on it and have draft legislation on that basis, that I think we could have found a way forward and I still think --
361. LLOYD CLARKE: Even though that might not have been consensual?
362. DAVID HEATH: My hope was that we would have reached a consensual basis. What I said at the time was to put something down even if it is not consensual, and let us work on a draft legislation on that basis and see what happens.
363. LLOYD CLARKE: That is helpful. Thank you very much.
364. ALUN MICHAEL: I would not like to misinterpret what you are saying so can I clarify your position. Apart from the issue of accountability which you have covered quite clearly, is it your position that only individual donations are acceptable and that the state should outlaw any collective decision to subscribe to a political party?
365. DAVID HEATH: That is not what I said.
366. ALUN MICHAEL: I know it is not what you said but is it your position?

367. DAVID HEATH: My position is what I say, Alun. That is why I am giving evidence. I am saying that I think the individual donations, with a proper audit, is a proper way of donating and that there is as role for donations from bodies corporate provided that, again, all the necessary probative mechanisms are in place but they should be limited in exactly the same way as individual donations are limited so that there is no suggestion of an unreasonable level of influence on the part of anybody, whether it is a billionaire or a large company or a trade union.
368. ALUN MICHAEL: Thank you. That is clear. Secondly, did I understand you correctly that you see the £50,000 cap as essentially being a starting point?
369. DAVID HEATH: If I were drawing up the legislation tomorrow I would not put in £50,000. I would put in £10,000. Even if I was wearing my government hat there would be negotiations within government to find an appropriate level but in this instance where we are trying to reach as far as possible consensus between parties I accept the fact that there will be different views as to what is the appropriate level. I would be then arguing for progressive reduction but it may be the other parties take a different view.
370. ALUN MICHAEL: Do you accept that there is a need for regulation of third party campaigning which I do not think you have covered?
371. DAVID HEATH: We already have to a certain extent, as you know, from the previous legislation. I think again this is an area where there is potential for huge abuse. This is where I would like the regulatory authorities to be very careful and to intervene where appropriate. Third party campaigning, in the context of a general election: it is quite difficult to define what is campaigning on the part of a third party which is designed to support the position or platform of a particular party or candidate. Let us say you have an environmental NGO, if they are campaigning in the context of a general election for a specific policy platform and it coincides with the principal policy platform of one party and is completely at variance with another, are they effectively entering the campaign on behalf of that other party? I think it is very difficult to set down in statute something that catches that. To a certain extent it would need the regulatory authority to be aware of the dangers and to be able to step in appropriately as and when necessary to say --
372. ALUN MICHAEL: So it needs attention but with some care?
373. DAVID HEATH: Yes. I have not got an easy blueprint and I would not pretend to have one.
374. ALUN MICHAEL: I asked Francis Maude a question about the alternative to the regulatory and limiting approach of looking to create better opportunities for comparing policies and candidates other than defending on the press and the media and perhaps organisations that might have their own agenda. Do you have any thoughts on that area?

375. DAVID HEATH: That is an interesting question and I am not sure I have got an easy answer. My feeling, in the context of the last election, we saw different methods of putting candidates before the public begin to develop. The most obvious one was the television broadcast. I am not speaking for the party here but before then I was quite sceptical about the leaders' debates, partly because the constitution that is in me said, "Hang on a minute; this is a presidential format and we do not have a presidential system. The leaders of the parties are not who we elect as electors in this country; we elect local members of parliament". I have to say I think I was proved wrong by events because what it clearly did was stimulate enormous interest and debate across the country which was reflected in interest and debate within constituencies. I had people constantly coming up to me in the course of my campaign and saying how interested they had been in the debates. I had an 18-year-old from a local school come up to me which is quite amazing today. He said, "Normally all we talk about is football; now we are talking about politics". That is a huge improvement on the previous election where --

376. ALUN MICHAEL: So those options are things we need to look more at?

377. DAVID HEATH: I would like to think we could but recognising and remembering that we do elect individual members of parliament. I found in my constituency that there was more appetite for public meetings than there has been in a long time, which we were told 20 years ago were dead but somehow this time around people actually had an appetite for that sort of thing. Perhaps the things to show candidates and their platforms and invite comment are things that need to be done. I do not think our regulatory framework necessarily helps with that process at the moment. The issues about having to declare as your own expenses a debate if one of the candidates has not been included, for instance, is a dampener on that. Using some forms of IT is not easy to relate to the rules as they find them. If your Committee has suggestions in that area I personally think they will be hugely welcomed as to ways of invigorating the party political process but also finding alternatives to the traditional and very expensive ways of campaigning.

378. ALUN MICHAEL: To put my tongue slightly in my cheek, do you think that given that the environmentally unfriendly sacks full of paper are generally other parties trying to keep up with the well-established Liberal Democrat technique and that there ought to be a cap on that?

379. DAVID HEATH: I think the constituency expenditure limits did bite at the last election but, as I say, what we had instead was - I think abuse but others would use a different term - by central parties of substituting their staff from central offices. We established techniques in by-elections, you are absolutely right, and the other parties have now copied those techniques and with a great deal of success in some cases. Is it good for politics for people to receive a letter a day from a party leader? I am not totally convinced but I would probably be shot for suggesting that.

380. SIR CHRISTOPHER KELLY: Thank you very much. Two questions by way of finishing. There is going to be a referendum next May probably. The rules governing the funding of referendums are quite complex. Do you have concerns about this?
381. DAVID HEATH: To be honest, I do not. I think we have a fairly robust regulation of referendums. Unless the Electoral Commission come up with significant concerns they wish to express, I do not think I would want to revisit that at this stage.
382. SIR CHRISTOPHER KELLY: Thank you. Finally, this has been an exploratory hearing after which we will discuss and make up our minds as to whether or not we think we can add anything by launching a longer-term inquiry. Do you think we could add value by involving ourselves in this difficult issue?
383. DAVID HEATH: I can only say that this Committee has, in its past forms, added enormously to the debate on this issue and others. My candid answer is yes, I think you can, not least in maintaining interest in a topic which certainly some of us feel still has an urgency and salience. But also in pointing us towards areas which have not yet been considered in terms of reaching that consensus which is proving so very difficult to find.
384. SIR CHRISTOPHER KELLY: Thank you very much. Is there anything else you wish to say.
385. DAVID HEATH: No, I think that covers it. Thank you very much indeed
386. SIR CHRISTOPHER KELLY: Thank you very much for coming to talk to us this morning.
387. DAVID HEATH: Thank you.
388. SIR CHRISTOPHER KELLY: We are now breaking until 2.00pm.
389. SIR CHRISTOPHER KELLY: Gentlemen, good afternoon, and thank you very much for coming. Collectively you represent the smaller parties. You are not all of the smaller parties and some of you are quite large parties in your areas. The purpose of the hearing today is an exploratory one. What we are trying to identify is whether value would be added by this Committee launching an inquiry into party funding in an attempt to reach some sort of a sustainable position on that after the failure of the Hayden Phillips talks in 2007 during the course of which I think all four of you were consulted but did not form part of the negotiations. Is that right?
390. I am conscious we have only got 45 minutes and there are 4 of you. I am very grateful for those of you who have given a short memoranda beforehand which you can take it that we have read, although some of them came in later than others and, therefore, have been less carefully read it is

probably true to say.

391. The issues on which we focused with your colleagues from the larger parties are donations, expenditure and state funding you will not be surprised to hear, and what would be helpful - without repeating what you said in your memoranda – is if all four of you in turn could give us your views on each of those things. In the course of that, one of the things we are particularly interested in is whether any of the things that appeared to be coming out of the Hayden Phillips talks before they collapsed caused particular difficulties for the smaller parties? Are there considerations which we ought to take into account which particularly affect you which would not affect the others? Mr Robertson, you look as though you are ready to start.

392. ANGUS ROBERTSON MP (Scottish National Party): Thank you very much for the invitation. It is good to be here and we are pleased that we have not had to write letters to prime ministers and various other peoples because we have not been considered as in previous similar exercises. The SNP are supportive of all the principles that there are in the Hayden Phillips report as it specifically relates to the way in which state funding should operate as part of a wider and more balanced system of party funding. You may well be aware that the suggestion - should there be a state funding element - is that votes should count differently. It should not be a surprise to you that SNP feel that a vote is a vote and is of equal measure.

393. I have some correspondence from the time of the inter-party talks with a detailed breakdown provided by the secretariat that you may not have and I am happy to leave that with you. It gives a breakdown on the amount the different political parties would receive as a basis of the Hayden Phillips recommendations of 50 pence for the Westminster vote per party and a 25 pence amount for devolved and European elections. To give you an example of the losses incurred by that proposal, the Scottish National Party would lose £220,000 and Plaid Cymru £96,000. The level of drop for both of our parties is similar in effect - and I know you are speaking separately with colleagues in Northern Ireland - but this similar level of discrimination would then apply also to the Democratic Unionist Party.

394. SIR CHRISTOPHER KELLY: I am sorry to interrupt you. A drop relative to ...?

395. ANGUS ROBERTSON: 100 per cent. We are in favour of every vote being worth an equal amount. For us that is a very important element of what came out of the Hayden Phillips' recommendations.

396. SIR CHRISTOPHER KELLY: Thank you.

397. ELFYN LLWYD MP (Plaid Cymru): With regards to the question of donations we are of the opinion that they should be capped. In our evidence to Phillips we put down a £5,000 limit although I would not go to the stake over the actual figure but we do believe there should be an individual donation cap.

398. I understand that there was a difficulty with regard to trade union funding and it is my belief that that is why the negotiations broke down between all the parties. I believe it would be perfectly right for trade unions to continue to contribute to political parties although I believe they should be on an "opt in" basis. In other words, they should tick the box for the party that they might support and there should be a ballot every, say, two years and if there is a take-over of a union by another, that there should be a ballot at that point as well. I think it has the benefit of transparency; it has the benefit of being even handed; it does not, it seems to me, favour any political party but potentially could favour all of them.
399. I understand what Phillips said with regard to this issue. These payments may be regarded as individual donations for the purposes of the new limit if - and only if - the decisions reached are clearly transparent and it is possible to trace payments back to identifiable individuals. By adopting the course of action that we propose an individual can tick the box and then decide whether he or she wishes to make any donation to any political party. With the safeguards that I referred to I think that would be useful.
400. We have said a £5,000 limit; it could be higher so we would not necessarily fall out over that.
401. The other question that was put to us by you, Sir Christopher, was expenditure. Yes, of course we think there should be a cap on expenditure because there is an arms race, in effect, and it is becoming not unlike the American situation almost where money talks, and I think that is a very unhealthy thing for democracy generally. We would say also that we should be looking at excessive expenditure in some marginals well before the actual election is called. We fully agree with the case for reducing spending allowed at general assembly and European elections and we also think that there should be regulated periods and they should be standardised. I would suggest maybe four months in respect of all those elections. A case could be made for annual local limits on expenditure. There is some merit in this case and we believe that that expenditure should be transparent and fully accounted for. What was the third question, Sir Christopher?
402. SIR CHRISTOPHER KELLY: State funding.
403. ELFYN LLWYD: Yes, I agree with what Angus has just said. By the way, I had the benefit of seeing what he sent in and I could not disagree with any of it so I did not send a separate memorandum myself, to save time.
404. We believe that state funding has to be carefully considered and it is a way forward. One of the ways it could be done is the value of each vote, as Angus had very fairly put to the Committee. We think that that is the way forward. We appreciate, however, that in these difficult times when politicians are not, as it were, the most popular people on earth, that might be difficult to put to the public. However, when one thinks of some of the large donations and people suddenly popping up in the House of Lords, we need more transparency. We need a proper understanding of what political parties are

there for and we really do need an arms-length basis of funding. It is not beyond any of us, I am sure, to put together a formula that would be fair to all. But I do concur fully with what Angus has said. A vote is a vote, whether it is in Northern Ireland, Wales, Scotland or a general election.

405. SIR CHRISTOPHER KELLY: Thank you very much.

406. COUNCILLOR ADRIAN RAMSAY (Green Party): Thank you. To expand on some of the things that I said in my initial comments, I think it is important that we do move towards state funding for political parties to create more of a level playing field to ensure that voters hear about the full range of policies and parties on offer. But also I think to move away from the situation that is inevitably attached to reliance upon large scale private funding and which is allegations over “cash for honours”, “cash for policies” or whatever. Whether those allegations prove to be true or not, the fact they are there damages politics and they will inevitably be there while parties are over-reliant upon private sources of funding. I think we need to move to a situation where parties are far less reliant upon private funding. That has to include state funding and a restriction on private donations.

407. I support the principles in the Phillips report but of course you asked us to look at the detail. I would like to concur and expand on what Mr Robertson said about the detail of how party expenditure is calculated. Mine and the Green Party’s view is that it should be based on the most recent votes in a proportional representation election because as we know - anyone involved in campaigning for general election knows - a very large number of votes in a general election are tactical rather than actually what people’s preferred option is. That might change in the future if the voting system changes but that is the case at the moment. So, to get a reflection of people’s support for a party rather than a vote in a specific general election I think a proportional representation election is a far more appropriate way to measure the broad support amongst the public which has got to be the way state funding is decided and apportioned.

408. In terms of expenditure, I would say yes to the question that is in the document that was circulated. There is an arms race in expenditure. I agree with Mr Llwyd that there is the real risk of the UK moving towards a US system where it is a pre-requisite of any candidate at any level of office to be able to secure funds when surely that is not needed in order to become a politician; that you are talented at fundraising or have wealth or have access to people with wealth. Surely that is not a direction we want our politics to go on. Therefore state funding combined with limits on private sources of funding is crucial and we have to ensure there are limits to national expenditure of parties under which parties can effectively buy parliamentary seats by flooding those areas with what counts as national campaign items but actually are fully designed to influence the result of the particular constituency. To pick a specific example of that I think parliamentary by-election limits are particularly problematic where the limit is £100,000 which is 10 times higher than it usually is for a particular constituency in a general election. That means that it is a two or three party race to raise that money and other parties find it much

harder. It also changes the nature of that election. It means it is entirely based on big budget items, very large numbers of leaflets and not the direct engagement with voters which is the cheap form of expenditure that parties would be forced to do if the limits were tighter. So I think the limits for parliamentary by-elections needs to be considered amongst the other restrictions.

409. SIR CHRISTOPHER KELLY: Thank you very much.

410. LORD PEARSON OF RANNOCH (United Kingdom Independence Party): Yes, thank you, Sir Christopher. I would like to repeat that I think public disdain for our politics and political class has reached such a depth that any state funding is unlikely to improve public engagement in our democratic process. The key to me is that people must feel their vote counts, and now it does not. Two brief points I did not put in my submission are these: that until the new coalition government came along the government of the day was elected on 40 per cent of a turnout of 60 per cent or 24 per cent. I also did not put in my submission - and it is slightly controversial - but that government of the day then goes on to make only a minority of our national law. As I say, that is controversial but the government has admitted to me two or three times in questions in the Lords that a majority of all law - affecting our business, industry and commerce - is now imposed from Brussels and there are estimates that mean that a substantial proportion of the rest of our law is imposed from Brussels. But the people vote for the House of Commons. The House of Commons and the House of Lords are wholly irrelevant in the present system of EU law making.

411. I do not think any of the funding arrangements or voting systems really addresses this. I think the only answer to restore democracy to the British people is a system of initiative referendums. That is really the point I want to make. As to the funding, I put in my report a £50,000 cap on donations would be damaging unless we got the pence per vote thing, which I thought was 40p and 20p but I am told it is 50p and 25p; that would be better. Finally I do think that with 2.5 million votes in the European elections and the best part of 1 million votes in the recent general election I cannot help feeling some form of Short money - call it what you will - would be justified to myself and my colleagues in the House of Lords, or for the party more generally where, after all, that funding is often used. Thank you.

412. SIR CHRISTOPHER KELLY: Thank you very much. I think I have understood that a point of particular interest to the smaller parties is the way in which any state funding is calculated, for obvious reasons.

413. In the discussions this morning with your colleagues from the larger parties there seemed to be an almost unanimous view that if you were going to impose a cap on donations - unless it was set at a high level - then some element of state funding was an inevitable consequence. But there also seemed to be a view that in current circumstances the notion of introducing further state funding over and above that which already existed would be extremely difficult at a time when everything else was being cut. I wonder if

each of you individually had a view on that.

414. ELFYN LLWYD: I am sure you are right. It is going to be difficult and I alluded to that in my remarks. It could be tempered in this way, for example: it could be match funding. In other words if the party raises £1 the state would add £1 to it so that, in effect, it will hopefully re-energise party members and hopefully might even be a nearer link with the public as well rather than just giving a party a lump sum. They would have to work for it, in other words. The actual voting means that they work for it but also over and above that there could be a form of match funding. I do not know.
415. SIR CHRISTOPHER KELLY: Are you confident that if there was a form of matched funding or a tax subsidy, which is the other suggestion, that that would result in a greater volume of individual donations?
416. ELFYN LLWYD: I think probably it would because if you look at the charitable donations generally and the tax element being added on, that is very persuasive normally. If you say, "Your £1 will mean £2; if you donate £1 to us it will mean £2 in effect", that scenario seems to work and I guess it might be quite similar in operation.
417. SIR CHRISTOPHER KELLY: Thank you. Mr Robertson?
418. ANGUS ROBERTSON: State funding from our perspective can only happen as a part of the mix. Political parties have a responsibility to fund themselves through our members and supporters and to try and be as vigorous in doing that as possible. Most donations we receive are small donations; they are not large donations at all. We certainly cannot go from a situation where it has been pointed out the stock of the political process and politicians is so low, we have an imbalance and move from the current system to one which is disproportionately state funding. That would not be acceptable to the public and I completely understand that but we are trying to square the circle of how do we transition from a situation where the status quo is not sustainable. So if we are agreed that the status quo is not sustainable, what are the other options? It does not, it seems to me, that the other option is that we get rid of political parties as the main bodies that allow the electoral democratic process to work so that is not an option. Can we make politics cheaper? We can try. I think most politicians' work very hard to get the maximum amount of value out of the limited resources that we have to communicate with the electorate. We do try and work with quite limited means and with the advantage that we do not have a situation in the UK where television advertising is allowed which of course is the great arms race ingredient in American politics. But we are seeing some of the elements of American politics coming into the UK system and that does bring expense.
419. How do we do that? I suspect we need to do a mixture of different things and, yes, I think we should be looking at match funding. Yes, we should look at issues like tax relief or votes received, seats gained, and tax returns. Perhaps an option of being to take a box when you vote. All these things are worthy of consideration but the central point you asked was is this

something that has to happen and, yes, it has to happen but only within the context of significant reform across the piece because otherwise the public will not accept it.

420. SIR CHRISTOPHER KELLY: In that context you think you could sell it to your constituents?

421. ANGUS ROBERTSON: Yes.

422. SIR CHRISTOPHER KELLY: Okay, thank you.

423. ADRIAN RAMSAY: The fact of the matter is that the current arrangement does not enable a fair and healthy democracy and it needs to be reviewed and that is presumably why you are considering looking into this. There are difficult choices being considered in terms of the wider public purse at the moment and there are some priorities to be decided. If the state were to make a significant contribution towards the current level of party expenditure then that would be considered unacceptable. I think we need to ensure it is introduced at the same time as reducing party expenditure because I think we have seen our system become more Americanised where more of the communications between politicians and the electorate are about advertising; perhaps not TV advertising yet but certainly billboards, newspaper advertisements, mass mailings rather than the traditional direct engagement with voters which is cheap and which parties will be forced to do if there are limits on how much they can spend. I think that will help re-engage people with politics.

424. I think this does need to happen but the amount we are looking for needs to be considered in the context of reducing overall expenditure of parties as it is at the moment.

425. SIR CHRISTOPHER KELLY: Thank you. Lord Pearson, you seem to want to get rid of it and yet have some of it at the same time.

426. LORD PEARSON: No. I stick to my overall point which is I do not think state funding will make the British people view their political class and system any better than they do now. They will say, "It is just more of our money going to these people in whom we have lost trust because our representative parliamentary democracy has broken down, our vote no longer counts and we do not like much of what they are up to".

427. However, if we move to the specific questions and if we assume that there is going to be some form of state funding, then on the cap on donations - this could hit a small party - it actually depends on one donor. UKIP used to depend quite substantially on one donor who has - because he is so fed up with everything that has happened here - taken himself overseas, and so on. We now rely on perhaps half a dozen big ones and then 30-40 smaller ones and the membership itself. I think the most important thing about donations is that they should be really transparent. I think they are less worrying if everyone knows who has given what and what their interests are and what

they are doing with their influence. We have seen that with marginal seats in other parties where very large donors have got involved. Providing everyone can see what is happening they become less worrying but if there is to be a cap then some form of matched funding must be an idea and the pence per vote must be an idea. Tax relief I think would, in the minds of the public, take us into the area of charitable giving and I think the public might find that very hard to digest because it is in fact a tax on them. I am against state funding. If it is to happen then it could happen down those avenues. We, as a party, would do our best to live with it.

428. ELFYN LLWYD: May I say one brief thing on the question of public funding? One thing that the Phillips review did say was they would suggest scrapping policy development grants in order to partly fund this. I know I speak for my own party but probably for all of us: it is a vital component to the work we do. The policy development grant is well worth the money spent on it. I am sure in respect of the larger parties I know not, but clearly in our context it is vitally important. As far as I know there has never been any waste or untoward expenditure. It has been value for money and that is where policy work gets done. I would hate to see that disappear in order to part-fund any change.

429. SIR CHRISTOPHER KELLY: Thank you. Questions. Alun?

430. ALUN MICHAEL: One of the things we explored with some of the earlier witnesses was the issue of if we are going to have controls on income and expenditure, what about the other side of the equation? Are there other ways of creating an environment in which it is easier for politicians or parties to put forward their case to the electorate and to be seen by the electorate making comparisons of policies and candidates? Do you have any ideas there?

431. LORD PEARSON: It is perhaps the first past the post system that encourages this particular --

432. ALUN MICHAEL: Sorry, that was not the question I was asking. I was asking about comparisons.

433. LORD PEARSON: I understand that but were you not to have that then those competitive influences would disappear and what you are talking about might become more possible and beneficial.

434. ALUN MICHAEL: With the greatest of respect you have not said anything about a mechanism that might --

435. LORD PEARSON: But you must not get away from the mechanisms.

436. ELFYN LLWYD: I think what Mr Michael is asking is: is there a different context which we could actually apply? In other words can we talk about our policies in a less adversarial way or less costly way? Do we need to be on the television all the time? Do we have to print costly leaflets and so on? And the

answer surely is yes because there are some very responsible think-tanks around who actually espouse ideas from across the board and rightly so. There are some, of course, who are allied to particular political parties. I think it should be encouraged and I think it would be a far more useful forum than the one Mr Michael, myself and others are used to unfortunately because nobody has all the good ideas surely. So, I would say yes; encourage people to get engaged more in these think-tanks and in these alternative fora without having to rely always on what goes on down the road.

437. ANGUS ROBERTSON: Perhaps I understood the question slightly differently. It was about what ideas are there out there currently that might make our engagement with the electorate more effective.

438. ALUN MICHAEL: Or even original ideas that are not out there yet.

439. ANGUS ROBERTSON: Indeed, and I am not going to claim any of those but I can point out two things that I do think actually work quite well in the UK and that is (1) the access we have in a controlled period to television time, and (2) the rights we have as political parties putting up candidates in constituencies to a direct mailing to constituents. If we speak to practitioners on the ground and constituency parties often in recent years with a much diminished membership, those people who joined for political reasons to advance the causes that we espouse are spending an ever-greater amount of their time running jumble sales. They are doing less politics, are less able to communicate directly with the voters - which we would all like to do - but we are having to work in this hamster wheel of trying to raise money to communicate with people directly. What I am highlighting, Mr Michael, is we do have two ways at least which currently work. Rather than getting some of our often aging members to have to deliver 25,000 leaflets on something or other; to have a resource to be able to communicate directly with the electorate open to all political parties, that might take some of the burden away from the fundraising hamster wheel to actually engaging on political ideas and developments. It is something that works. Can it work better?

440. ADRIAN RAMSAY: To some extent parties can start to do this for themselves in that engaging with voters directly is cheap and is something that parties can do when they are not fundraising. But in terms of extra ideas, for example, media coverage of elections, if you look at local elections there is often little if any coverage of local elections in a particular area. If there is, it is not usually started with the necessary explanations of what particular local election it is and what that particular council has responsibility for and what the current make-up is and so on. For local elections, just providing those basic facts about the election is often left to political parties which is not always a good thing; it might be better if it was done by the media. I think it is very rare for the media to provide any detailed information about the policies and candidates of parties in local elections in the way that happens in other elections. Probably the same is true of European elections that perhaps the media take little interest in those.

441. Whilst there is inevitably a lot of focus on the general election race, it does present it as a presidential race rather than as a parliamentary system that we do have. So the way the media presents the general election - facts about the choices in a given constituency and how the voting system works - is another issue. Looking at the media's communications around elections, particularly those that are often overlooked like local elections at the moment, is important. Perhaps also hustings are quite rare for local elections. They are perhaps becoming less common other than in marginal constituencies for general elections and organising and helping to publicise hustings would be important. Certainly in my own experience as a general election candidate this year was that whilst we had lots of hustings in the constituency I was standing in which was marginal, they were organised too late on for the parties to help publicise them and without the parties publicising them, they were not publicised very well. Some had good attendances where the organisation putting it together had a high membership but some did not. There probably are other things on this side of the coin that it would be good for yourselves to look at but I hope you do also look at the funding and expenditure arrangements as well.
442. LORD PEARSON: I am not sure the aim is really realistic given the nature of political parties and involving think-tanks and so on. I do not think it will take the "yahoo" element out of it. I agree that on the TV debates - and I think some of the minority parties did even worse than us - there were five hours in effect with a massive audience for the three failed old parties as we call them. UKIP only got five minutes and some of the other parties got nothing at all so if you are talking about trying to make things fairer and less antagonistic, that is something that should be looked at. But overall I repeat that while you keep this system it encourages this attitude and the only answer here again is you would not get this if you had initiative referendums.
443. LLOYD CLARKE: How important is a consensual agreement? You must feel as though you are sitting on the sidelines at times and the other three are hammering it out between themselves, or not as the case may be. In terms of public interest and the importance for the public, how important is a consensual agreement rather than an imposed one?
444. ELFYN LLWYD: In what context?
445. LLOYD CLARKE: On funding, yes.
446. ELFYN LLWYD: I think it is rather important that we do reach a consensus. There was a valiant attempt some years ago although unfortunately we were not part of that and I think we should have been because then everybody signs up to it and there is no quibbling about it at a later date. It is there and it is done. I was rather surprised that we were not included frankly because we do have an entirely different view of things on the smaller party side, as it were, very often concurrent with the larger parties as it happens in many ways. But to answer your question I think it is very important that it should be a consensual agreement.

447. LLOYD CLARKE: Could you either individually or together help in any way to facilitate that resolution?
448. LORD PEARSON: Providing the consensual agreement does not continue to disadvantage the smaller parties.
449. ANGUS ROBERTSON: Is it not the case that the only reason we do not have consensus is one very large elephant in the room which relates to the issue of the ability of trade unions to fund one political party in a certain way? I was not privy to the three UK parties not being able to come to an agreement but from the reports that I have read --
450. LLOYD CLARKE: I think it is fair to say that that was the sticking point.
451. ELFYN LLWYD: Can I just say that we were invited to take an active part in the drawing up of the IPSA Bill and Angus and I played a very substantial part in doing that and that is an example where the larger parties decided that they would want a consensual approach with regard to that particular piece of legislation. To be fair to them we took an equal part in that process. I am not proud of what IPSA is doing at the moment but that is another issue.
452. ANGUS ROBERTSON: I would be happy to share with you an element that, surprise, surprise, the three UK parties did not even discuss when they came together to talk about transparency of the funding of political parties within the UK: it is at the present time there are UK parties who do not even have accounting units in some of the nations of the United Kingdom. So, effectively what you have is a funding transfer from the London headquarters of a UK party into devolved elections. I think this is the reason why you are having separate discussions with political parties in Northern Ireland. But it holds equally true that there are issues of funding coming from outside Scotland and Wales into devolved elections frankly bankrolling election campaigns. We have five minutes left so unfortunately I do not have much time to talk about why I do not think that is a good idea in a democracy but let us stick with the principles out of Hayden Phillips which is that we should have maximum transparency. So, the minimum matter I would suggest when considering these matters is that there should be transparency about the way in which political parties work when it comes to all kinds of elections in the UK, UK devolved and European. Perhaps there is nothing untoward and perhaps it is totally justified. I have a funny feeling that election campaigns have been paid for in parts of the United Kingdom from elsewhere.
453. SIR CHRISTOPHER KELLY: What degree of transparency would put that right?
454. ANGUS ROBERTSON: The same level of income and expenditure that is provided by the Scottish National Party and Plaid Cymru at the present time. Who are our donors? What is the money spent on? That is what the SNP and Plaid Cymru report in devolved elections in Scotland and Wales but the

UK parties do not.

455. SIR CHRISTOPHER KELLY: Because they report on a UK-wide basis rather than --

456. ANGUS ROBERTSON: Yes, and some of them do not even have accounting units.

457. SIR CHRISTOPHER KELLY: I understand the point, thank you.

458. ANGUS ROBERTSON: So there is no transparency whatsoever. But I do not think that was brought up by the three UK parties when they met together in these meetings. To answer your question, Mr Clarke, it is probably a good reason why one should include all political parties not least the parties in government in Scotland and Wales; political parties in our case which are larger than the Conservative Party and larger than the Liberal Democrats; the two parties that form the coalition at a UK level.

459. SIR CHRISTOPHER KELLY: You said - because we only have a short time - you were only going to go into the transparency point but presumably what you are arguing is it is wrong in principle as well as being --

460. ANGUS ROBERTSON: It is wrong in Canada; it is wrong in plenty of other places. Political parties should raise the money. I am not talking about constituency campaigns. I am talking about national elections as they are in Scotland and Wales. So, political parties should live within the means that they can raise in Scotland and Wales and they should certainly as a starter be transparent about them. But, yes, I agree that the political parties in devolved elections should use the resources that they raise in Scotland and Wales.

461. SIR CHRISTOPHER KELLY: Thank you. David.

462. DAVID PRINCE: Just a quick question about administrative burden: if there were the caps on donations and the tightening up of local and national spending as you variously talked about, are you happy that you can bear that on your relatively small party machines and is it a price you want to pay?

463. ELFYN LLWYD: May I answer that? In our response to Phillips we did say that there would be a financial burden on compliance and we suggested that it might be appropriate to assist in order to ensure complete compliance because it is quite a heavy burden to do it properly. Our belief at Plaid Cymru is that the Electoral Commission has not got the teeth to do the job properly. It appears that in very serious breaches it refers matters on for police investigation. All well and good. We believe that in order for the Electoral Commission to perform better there should be a suite of civil sanctions as well to ensure that there be no reticence in taking matters forward when they do see wrongdoing.

464. ADRIAN RAMSAY: I think the administrative impact on smaller parties does need to be considered as part of the funding arrangements and I

highlighted some specific examples in my comments, particularly the problem relating to accounting for expenditure in the year running up to a general election when you do not know when it is going to be. I think the principle of accounting is right but I am pleased you have raised the issue of the burden that places on smaller parties.

465. To answer the previous question about consensus I think it is desirable although the more important thing is to clean up politics in the ways we have been talking about. I am confident we can make substantial progress if the four of us talks about what we thought was a sensible way forward and if we can contribute to the discussions that are happening and try to get agreement with the other parties then let us do that. Let us make that happen.

466. LORD PEARSON: I would just come back to the concept of Short/Cranborne money here. Because it requires having two elected members or whatever it is, that money is dished out to the main parties and I think also to the cross benches and quite rightly so to the Lords. But this is perhaps a route you could go down because that would help towards the administrative costs which obviously will be more exposed. I remember when both bills were going through the Lords the conflict was between the Conservatives who did not want the trade unions to go on making such generous donations and the Labour Party who did not want the large donations to the Conservative Party. That is really where the conflict was and I suppose a cap on donations with matched funding and a pence-per-vote. The last two should surely be helpful to the Labour movement if they have lost the big slugs they get from the trade unions. That might be a way with respect you might want to look at.

467. ANGUS ROBERTSON: Very briefly in reply to Mr Prince's question all of us have had to prepare to come here and our staff have advised us on how we take part in this and other fora as part of the democratic process. In the previous sections you had colleagues from the UK parties who were here who came here with a backup exponentially larger than the resource that is available to us paid for by the public purse. Just the very basic principle, and the question you pose: yes, there is a challenge there for us because we receive so much of a reduced amount, whether through short. We do not get any Cranborne money because the SNP does not take seats in parliaments that are not elected. But the point does need to be recognised that whether it is on issues of financial compliance or on the standard events that we take part in as part of the democratic process like this, one does have a support mechanism and if it is exponentially large for other parties to do the same job, there is an imbalance there and that needs to be taken into consideration.

468. SIR CHRISTOPHER KELLY: What does that mean "taken into consideration"?

469. ANGUS ROBERTSON: I think it would be really helpful for those to familiarise themselves with what is it that one actually needs to do in a party headquarters or in the whip's office or wherever else? How are the resources actually used? I think if one were able to do that, one would appreciate how

tight things actually are. There is good value for money and that, I suppose, is a good thing to be taken from it, but it is a real stretch.

470. SIR CHRISTOPHER KELLY: We previously had a discussion about not being disadvantaged. Are you now arguing for positive advantage to smaller parties?
471. ANGUS ROBERTSON: Arguing for fairness.
472. SIR CHRISTOPHER KELLY: Yes, but does fairness require positive discrimination in this area?
473. ANGUS ROBERTSON: Let us look at it this way, because the lead opposition party in the House of Commons receives a leadership grant, which is eligible only to it, not to any other party. That is why I said fairness, because we, as other parties, are not eligible for any funding stream that is comparable with that, yet we still have to undertake the same political tasks within the political process. There is currently discrimination. That is why I am just asking for fairness.
474. ELFYN LLWYD: I would just add that that underlines what I said about policy development grant money, which is vital for us.
475. LORD PEARSON: No, I think just to put some statistical flesh on that, I am absolutely not speaking against the Green Party here at all, but under the present system, we did get 920,000 votes, I think, at the last election and they got 285,000, but they won a seat; God bless them, well done. But the result of that is that I think that they get funding of around £51,000, something of that kind, because they happened to have got one MP in one place. That is why I say there must be a case for rewarding the numbers of votes cast with some form of administrative back up if it is going to be given to other parties, and indeed, the cross-benchers who, in my view, deserve more help too actually, because they, funnily enough, represent the 40 per cent of the British people who did not bother to vote, if you want to look at it that way.
476. DAME DENISE PLATT: We talked about donations and caps on donations, but we heard this morning that an alternative view might be there should not be any cap on donations at all. Where the cap should be is on expenditure and the limits of expenditure and that should be where the regulation is, because if you have a cap on donations, you have got possibilities for gaming, evasion, avoidance and a whole load of different ways of getting around having a cap on a donation. What is your view? I can see a no coming in the middle, but I might see a yes coming down that end.
477. LORD PEARSON: Providing we are not restricted in proportion. I mean, if the cap is £10 million, it does not worry the UK Independence Party much at the moment, I have to tell you, but if the restriction is going to be applied in proportion with votes cast, then I am not sure it is such a good idea.

478. ELFYN LLWYD: I think there should be a cap on donations and a cap on expenditure, and I think that makes sense. It is not beyond lawmakers to put in place a system that cannot be defeated by evasion or other means, surely, because that is the task ahead. We want a watertight system, and I do not presume that that will be a system that can be easily broken. If the job is done properly, it will not be.
479. DAME DENISE PLATT: It relies very heavily on regulation.
480. ELFYN LLWYD: Well, it might do, but on the other hand, when people get the message, ten years from now it will be quite natural for people to behave within those rules.
481. ANGUS ROBERTSON: One person's regulation is another person's safeguard. I think the answer is a mixture of both. Part of the reason for the cap is that, as we well know, there have been cases where people have asked, on the basis of a large donation, what is one getting for a large donation? I happen to know a lot of people who do generously support political causes for my own party, for others, for single issues, and they do that because they believe passionately in the causes that the parties or these campaigning organisations espouse. But we need to get a balance between both things. It needs to be seen to be transparent and fair and equitable and workable. Political parties have a responsibility to say, "For us to work as organisations, we do need the funding to do our job" and that is why - as we have run to time - I suppose my last words to the Committee would be the SMP is very keen to support a process which delivers fundamental change. We regret the fact that it did not happen before. We regret the reason why it did not happen before. It should not be a controversial issue for any organisation to ask its members do they wish to donate to a cause and do so regularly in a democracy. That should not be difficult to do, and that should not be a stumbling block to reforming party finance.
482. SIR CHRISTOPHER KELLY: We have concentrated, for understandable reasons, on the fairness of the system in terms of the way in which the existing funding systems or changes to them might affect the smaller parties. Where we first came into this, I think, was not so much on the fairness of a distribution mechanism, but on a perception that significant donations could buy a position or influence or honour. Is it your view that there is a real issue around that, that is to say large donations actually succeeding in buying position or influence or honour, or do you think it is an issue of perception only?
483. ELFYN LLWYD: As the two parties who actually blew the whistle on the process, we discovered some fairly obvious examples of certain donations being made and then people being ennobled within a fairly short time, depending on the amount. God bless him, fellow Welshman Lloyd George made an industry of it a century ago on a gargantuan and industrial scale.
484. SIR CHRISTOPHER KELLY: But now we have transparency about loans as well as donations.

485. ELFYN LLWYD: Yes, we do, but the public perception, I have to say, is whether there is a linkage. If as an individual I give a political party £250,000, I might be a very worthy individual. I might be a hard-working person. I might be for the best possible reasons, and I might be able, and you might then say, "Well, look, there is room for you in the House of Lords". The donation and my being ennobled may not be connected in that way, but the public will say there is a direct connection. Very often there are very innocent and proper appointments of the Lords from people who have made large donations, but the public will view them with suspicion.
486. SIR CHRISTOPHER KELLY: No, I understand exactly about the perception issue. The question was is there still underlying it a real corruption issue?
487. ELFYN LLWYD: I believe there is.
488. SIR CHRISTOPHER KELLY: Thank you. Mr Robertson?
489. ANGUS ROBERTSON: I cannot remember the percentage figure off the top of my head, but it is in the public realm, the percentage of people who were significant donors who then went on to be ennobled, and I do not think that is down to chance.
490. ADRIAN RAMSAY: I do not have the evidence that the previous two speakers have, but I share their concerns and I think that the possible link between donations and changes of government policy, such as the allegations over Bernie Ecclestone and other examples since, also need to be considered in the light of this. I think it is another argument for a limit to donations as well as a limit to expenditure.
491. LORD PEARSON: I think it is in the public perception, and I think it has happened probably quite a lot in the past. I think it is, with the new Appointments Committee and all the rest, very much more difficult, but it will always be part of the scene where individuals are free to make large donations to political parties. It will be almost subconscious in some cases, but it is difficult to avoid it in perception, and I think it is more difficult in fact now than it was five years ago.
492. SIR CHRISTOPHER KELLY: Is there anything any of you have not been given the opportunity to say to us that you want to say to us?
493. ANGUS ROBERTSON: We are always happy to come back and we are always happy to be party to these kind of conversations.
494. SIR CHRISTOPHER KELLY: Thank you. As I said at the beginning, this was an exploratory session, following which we will discuss among ourselves what we have learned before we decide whether to go ahead to a full inquiry. If we do go ahead to a full inquiry, then of course we will want to

talk to all the political parties. So thank you very much for coming and thank you for sitting down together.

495. SIR CHRISTOPHER KELLY: Thank you for coming, and thank you for agreeing to take part in a joint session, which I realise is never as easy as giving individual evidence, so thank you for that. Thank you also to each of you for the memoranda that you have given us before coming, which if we may, we will take as read and put into the record of the meeting.
496. I think I ought to begin with a general question, which is Hayden Phillips has tried and failed. You have all got a lot of experience of researching this issue, including, I imagine, looking at experience in other countries. If you were sitting in Whitehall with the requirement to implement a coalition undertaking to do something to reform party funding, what would you now be doing? Professing Ewing, perhaps we will start with you.
497. PROFESSOR KEITH EWING: Thank you very much for the invitation to be here. I think it is right that Hayden Phillips' attempt has failed. I think Hayden Phillips' review was set up historically at a different time from the time where we are today, the response, I think, to the cash for honours scandal, as it was described. My concern, I suppose, is a number of aspects of that review, which I think was designed to achieve a particular outcome, which was to focus on donations to political parties and to try to make the case for public funding. If I was starting today from where we are now, in the context of the economic circumstances of today, I suppose I would be saying three things.
498. One is that any attempt to reform party funding should start from the reality of party structure, and I accept the fact that in this country, as in other countries, our parties are organised and structured in different ways, and that any reform proposal should take full account of the different structure of the parties and should not try to put all the parties into the same kind of mold, which I think is what Hayden Phillips tried to do.
499. Secondly, I would say that given where we are that we should follow the pattern of existing regulation, which is to focus more on spending rather than on contributions and that, in my view, in answer to the contribution problem - and I accept there is a problem - is to try to reduce the levels of spending by the political parties. I would have thought that given where we are at the present time economically that that would be popular with the public, in the sense that if the taxpayer and public services are all to be reduced, then I cannot see why we would be opposed to trying to reduce the spending by the political parties themselves.
500. That brings me to my third point, which is that I would be very, very cautious at the present time about any suggestion that there should be any increase in the levels of public funding for political parties, because I think given where we are, it would be simply unsustainable. It would be unforgiveable, I think, if political parties were to take money from the taxpayer at a time when important public projects are being cut back.

501. SIR CHRISTOPHER KELLY: Thank you very much. Dr Pinto-Duschinsky.
502. DR MICHAEL PINTO-DUSCHINSKY: I would first start with the question of referendums and the funding of referendums, simply because this is so time-sensitive, and given that there will be a first reading of a bill in this month and then a second reading sometime we presume in the autumn, if there is going to be a look at how good and sustainable the financing rules for referendums are, it has got to be done very quickly. So I think that what I would do is to hive that off and have that as a very quick piece of work that you can do over the summer and come in with any report, if you wish, say around September, or at the latest the beginning of October, depending on what the government's legislative programme is. So that is the first point.
503. SIR CHRISTOPHER KELLY: I am sorry to interrupt you, but are you saying that because you think there is something seriously wrong with the way funding for referendums --
504. DR PINTO-DUSCHINSKY: I think that there are some very definite questions, and indeed, when Sam Younger appeared before the Treasury Select Committee in 2003, his evidence speaks very strongly to those problems and he was talking in terms of a possible referendum on the euro. I think it is worth reading in detail what he had to say, because that is longer than some of the brief points that I have been able to put in my opening statement. So I think I would take that very seriously and very quickly. That is number one.
505. Number two: I think that I would tend not to start with questions of negotiations and, "What would you do, and what would you accept?" et cetera. I would start somewhere else, which is to say, "Well, what is the situation with political funding in Britain today? What are the problems?" rather than what are the solutions, because if you do not know what the problems are, there is not so much point in looking for the solutions. You have got to examine the empirical base of what is happening. Is there an arms race? Is there already a lot of state funding? Was the Ashcroft money actually able to give Conservatives a large advantage or was that a major loophole or was it not? These are all questions.
506. Then for me, one of the most important questions is have the regulations that we have got so far led to an increase in funding through third parties? In my opinion, just coming to what one is likely to find, I do not think you are going to find an arms race. I think you are going to find a great deal of additional state funding through other means, and that one of the things that I would really be doing in this Committee is trying to set up some form of research to know do members of parliament use their allowances for their Westminster duties, or to what extent does that money feed back into partisan activities? I think we do not know. We have suspicions and we know about individual cases, but I have not seen any systematic work on that. So I think that is important, and similarly, the other forms of public funding, MEPs, local council, there is a lot of money that goes in from that way, and how is that

used and how does that affect the funding of parties? So I think we need to know more on that.

507. I think there is a real question about the third parties, because clearly if you regulate political parties, then anybody who wants to give huge sums of money would not give them to political parties. They would give them to an organisation that is as near as possible a political party, but is not quite a political party legally. Some of the interest groups that are on the fringes of parties do take legal advice as to quite how far they can go. I phoned one organisation that clearly campaigned for a party and asked, "Is your money in the total of your party?" and they said, "No, because we got legal advice that if we had propaganda to our members, that does not count as National Party spending". I know another think tank that was working for another party that were advised that certain kinds of research, if it was done one way, it would be party expenditure, if it was done another way, it would not be. So there is a whole world out there that is at the edge of political parties.

508. Now, I have, maybe a bit controversially, stated that David Sainsbury's contribution to the Institute for Government, a £20 million contribution, which I would consider is very close to the political arena, and had, to my mind, probable partisan aims, perfectly rightly. But if so, that would be a huge donation which is quite uncontrolled, because it goes for an institute rather than for a political party, and so I think you have to look at that whole world. There is another exotic one where the former Communist Party, £2 million of its leftover funds went to an organisation that was devoted to transparency in other political parties, but was not too keen to declare its own source of funding. So we have that world, and so I think that I would want to go in to look at that.

509. Now, the final point I would like to make, and this emerges out of the evidence, is that I was struck by the contrast between what Jack Straw said about the difficulty of donation caps, and I agree with him on that, and his sanguine approach about the difficulty to spending caps. Now, exactly the same difficulties apply to both. It is a nightmare if you were to try and say with a local bazaar that it had to be completely accounted for, and the rules of whether it is just the profit on the cakes, but the amount you spent on the cakes on the expenditure side and the amount that you got as income on the income side, because that would make huge differences to the total by the accounting methods. Also, if you had that overall cap, then it would easy, people would just give money to offshore islands for parties, rather than to parties. So if a party was going to go over the cap, they would just set up these other organisations to do campaigning, and as in Germany, they would call them something else rather than the Christian Democrats.

510. PROFESSOR JUSTIN FISHER: I think there are five points that I would make. The first is that the regulatory structure established by the Political Parties, Elections and Referendums Act in 2000 does represent a strong base from which to proceed, and I think there is a danger in trying to reinvent the wheel. By and large, it strikes me that PPERA got most things right. Some of the legal uncertainty which emerged has been tidied up

through the Electoral Administration Act and the Political Parties and Elections Act. Though I think there are still some problems, I think that is a firm base on which to proceed. However, I think the regulatory structure as it stands in general has failed to do two things, which were hoped would happen after the original Committee report in 1998, and the subsequent legislation. The first is that the system has failed to support parties financially in the way that it was hoped, and by that I mean parties continue to be in a position where they are struggling to make ends meet financially. Now, at the moment, the Conservative Party is temporarily wealthy and was very, very successful in raising money in the year or so running up to the election. The general picture is that all of the parties struggle to maintain their infrastructure and struggle to fund election campaigns other than the general election campaign very effectively. And one of the big changes we have seen since the late 1990s is of course the introduction of devolved level elections alongside European, the major local ones, London elections plus the generals. So parties are fighting elections in every single year of the electoral cycle, but the funding cycle follows the general election cycle.

511. The second thing that the structure has failed to address is the apparent problem - and I stress the "apparent" because it depends where you stand on this - of keeping big money out of politics. One of the arguments for transparency was that this would be a kind of block on people making significant contributions, either organisations or individuals, and transparency in this respect has manifestly failed. The only area where transparency did lead to a drop-off in donations was in the aftermath of the cash for peerages episode, and I stress that there it was an episode rather than a scandal, because of course there were no convictions. We did see a drop-off in donations to the Labour Party, but as an instrument of keeping big money out of politics, it has failed.
512. The fourth point that I would make is building on something that Professor Ewing said at the outset. I think it is important to take note of public opinion, and Professor Ewing is absolutely correct when he says it would be politically difficult to increase public money at a time of the cutbacks that will happen to all of us in the public sector, but that any recommendations, either from this Committee or in government legislation, should not be slaves to public opinion. I think there is a real danger. As I say in my paper, public knowledge of party finance and the intricacies of it is extremely limited, and opinions about it extremely volatile, so I do not think it is a useful guide.
513. The final point I would make is that there has been a tendency to try and over-regulate local voluntary activity in constituencies. The Political Parties and Elections Act introduced a bizarrely complex piece of legislation to try and regulate spending in the situation of uncertainty in respect of the election date. In the end, that uncertainty disappeared, because the election was in May and therefore there was less difficulty. But I think there is a danger which arises out of the inquiry from Hayden Phillips that we regard voluntary activity at local level as being akin to the kind of regulation that we see at national level. What I am very conscious of is that most people who are legally responsible for the conduct of campaigns are volunteers, whereas

those who are legally responsible for the expenditure of national parties are fully paid professionals, and I think it would be an error to apply the same rules to both levels.

514. SIR CHRISTOPHER KELLY: Thank you very much. Oliver.

515. OLIVER HEALD: The Hayden Phillips review of course came out of the concerns about loans for peerages and a general perception that perhaps big money might buy either influence or honours. Now, is it possible to effectively cap donations and what are the international examples on this? Would you like to start, Professor Fisher?

516. PROFESSOR FISHER: Well, capping donations is not conducted very often by large democracies in the international arena. Having said that, many of the regulations that we have in Britain make Britain actually stand out rather from other European countries. We are quite exceptional in the way that we try to regulate income to parties by capping spending. Traditionally, that has been a tool to try and choke demand. Very few other countries do that. Instead, they use state funding. So I am not sure that countries overseas provide many lessons in respect of this issue. However, I do not see the same difficulties that others see in terms of capping donations. It strikes me that if you cap expenditure, the procedures that you employ there are similar to the ones you might employ if you capped donations. There will of course be loophole seeking, as there may well be loophole seeking in terms of expenditure. It strikes me that it is not beyond the realms of possibility that you could do that, but of course there are difficulties in respect of whether you regard organisations such as a trade union to be analogous to a company, or indeed an individual. So there are complications there, but the principle of capping donations I do not think is one that would be insurmountable in terms of regulation.

517. OLIVER HEALD: So it could work?

518. PROFESSOR FISHER: I think so, yes.

519. OLIVER HEALD: Dr Pinto-Duschinsky.

520. DR PINTO-DUSCHINSKY: I am afraid I am a bit out of date on this, but my research in 104 countries in 2002 had 28 per cent of those 104 countries, so I suppose 29 countries that did have donation caps there. I think it is right to say that they would virtually all be much lower than £50,000 in amounts, sometimes very small indeed. I think that the question about whether they work or not is dubious in one way. I mean, I was very struck once going out with some Democratic Party fundraisers, and I asked them about caps on donations - which were then \$2,000 a person - and they said, "We do not know that there are any" and the reason was that they just get their lawyers to deal with the loopholes. I know in another one with that same fundraiser, they said, "Oh, we raised \$67,000 at a particular meeting". Well, their maximum was \$2,400. I think it is a cloudy area and that any form of regulation is

extremely difficult, but I think that I would feel that caps on expenditure are also extremely difficult. Does that answer the question?

521. OLIVER HEALD: Well, yes. I mean, to some extent it is how you pitch it, is it not? I mean, if you pitch a cap too low so that it is a small amount of money, you do run the risk that what has happened in America, where all sorts of devices have been invented, that becomes the way of doing business. Do you think it is possible to set a cap at a particular level that is likely to encourage law-abiding behaviour or non-avoidance behaviour, or do you think it is just entirely hopeless?

522. DR PINTO-DUSCHINSKY: I think that the same arguments came about speeding limit analogies with expenditure, that if you have a 50 mile an hour limit, then people will not go more than 80 miles an hour or 120 miles an hour. Now, whether that is a good analogy for donation caps, or indeed for spending limits if they are overall I think is questionable, because you do have the methods of husband, wife, children, cousins dividing, and that can multiply a lot. You also have the method that is used quite a lot, what they call "bundling" in America where, say, you have a law firm with any number of partners, and they all give a fairly large amount, but it is just done through their salaries and there is that agreement. That happened in Poland soon after this, and there were some very awkward cases because there was clear evidence of wrongdoing, but the prosecuting authorities would not prosecute.

523. Regulation is extremely difficult and this is something that I think I have argued with Keith about 12 or 13 years ago. I think that Keith has somewhat come round to my point of view afterwards that he also looked at some of the difficulties of regulation. So do not go lightly into regulation. If there is a real problem, then try the regulation, but do satisfy yourself that there is a big problem. Now, having said that, I think that it is certainly true that the very large donors in British politics - and we have had some who have given in the millions - are extremely large by international standards and I think are undesirable. So I think the big donor culture that is being talked about in British politics is undesirable, and it could well be that having a £50,000 cap would at least mean that the £5 million would be deterred. I hope that is not too indeterminate an answer.

524. OLIVER HEALD: No, that is very helpful. Perhaps you would be able to let us have your 2001 study that you mentioned as well.

525. PROFESSOR EWING: Yes, I can hand it over, if you want.

526. OLIVER HEALD: On to Professor Ewing, if we may.

527. PROFESSOR EWING: Well, it is always nice to have a common cause with Michael and to agree on some points.

528. I think first that not all countries have contribution caps, I think as Michael has suggested that probably only a minority do so, and the minority includes the United States, which people tell us is the best democracy that

money can buy. So in a sense, contribution caps are no guarantee that you will have a clean electoral system.

529. A second point is that I think there is a difference between regulating contributions and regulating expenditure. There is a very fundamental difference between a contribution and an expenditure. A contribution is something which takes place in private. It is a secret activity, and very often the parties wish it to remain such, as we see at the moment with allegations coming from France. Spending, by definition, is a public activity if it is taking place for electoral purposes, in order to influence the outcome of a campaign. Otherwise, there is no point in doing it. The other reason why there is a difference between contributions and spending, which affects the regulatory challenge, is that contributions take place on a continuing basis, so the challenge for the regulator is constant, whereas spending takes place at one-off events periodically at elections. If that is what we are seeking to regulate, election expenses, it is a one-off event which we are targeting.

530. So I think there is a qualitative difference between a contribution regulation and the spending system of regulation, but thirdly, I think the point has been well made about the efficacy and integrity of contribution caps. They just do not work. Now, why do they not work? Well, we may all want to be law-abiding, but it is impossible to find a system where the loopholes are not tethered into the legislation. I sat in the audience listening to the evidence in the last session. Somebody was concerned about a £500,000 donation being given to influence a peerage, for example. Well, what is to stop a political party saying, "We can only take £50,000 from you in any year. Why do we not help you give us more, why do you not enter into a donation plan agreement with us? You can give us £50,000 in each of the next five years, and while you are at it, your husband or wife can do the same". So very quickly, over the lifetime of a single parliament, that one person can perfectly consistently, with existing legal obligations, if the law is changed, give £500,000. I am not quite sure how that adds to any sense of public confidence in the way which our political parties would be funded.

531. Now, that is a very straightforward way by which the law would be evaded. One can think of many other ways. We could sit around this table and we could probably easily come up with 20 different ways by which we could get around this contribution cap. So you have got to think to yourself, are you going to go for a quick-fix solution which will look good and will get good headlines in the press, or are you going to go for a solution which within five years' time will be broken, will bring the system into even greater disrepute and will actually have advanced us no further forward than we are today?

532. OLIVER HEALD: But do we not need to keep our eye on the ball, that the standards issue that certainly led to Hayden Phillips' review was that particular individuals were giving very large sums of money and then the concern was that honours were following? That was not about the overall expenditure of a political party. That was about a person giving, donating a

particular amount of money. So is a donation cap not the only way to really tackle that?

533. PROFESSOR EWING: If the problem is giving money for a peerage, there are other ways to tackle that problem, which in a sense there is a question at the present time about House of Lords reform. So if, for example, the House of Lords is reformed and we have an elected second chamber, then in a sense it would be a poor reason to introduce contribution caps, the fact that we need to stop people buying peerages, because by then there will be no peerages to be bought. So I would say to you if the problem is buying the peerage, that is a problem that needs to be addressed, not the problem of the contributions to the political parties.

534. OLIVER HEALD: It is that or influence, is it not? I mean, the concern is either that you are getting an honour or influencing policy.

535. PROFESSOR EWING: The other point I would make in response to that is much of the publicity which surrounds this issue is directed at the donors, but why are the donors giving the money? Because the political parties are putting pressure on them to make the donation. Why is the target of our concern not focused on the political parties? Why are political parties not being exposed to greater levels of criticism about the money they are receiving on a voluntary basis from very wealthy individuals? Political parties are under no obligation to accept large donations full stop.

536. SIR DEREK MORRIS: Thank you. The background to this question is of course the issue this Committee is addressing now is not the substance, but whether it makes sense, whether it would be helpful for this Committee to look further into this issue, so that is what lurks behind my question. At lunchtime I was feeling quite cheerful, that is to say we had heard that there was perhaps 80 per cent agreement at the time of the Hayden Phillips report. There were one or two particular stumbling blocks. There was some idea that perhaps those might be sensibly and seriously addressed, first by this Committee, and then by political parties.

537. The picture that has emerged this afternoon, based on of course a very substantial amount of academic work in this field is, I think you would agree, a very different picture. For example, we have evidence that there is probably not an arms race, that there is probably quite a lot of public expenditure being spent one way or another and that it is not, by any standard, the best time to be looking for more public expenditure, yet at the same time - Professor Fisher has made the point, I think a well-taken point - that we have not necessarily kept big money out of politics. Now, superficially the answer would seem to be, "Well, you need to have a cap on expenditure". In the same way, you would think that if we have not kept the big money out, you should have a cap on donations.

538. Everything seems to point towards capping donations and capping expenditure, and that was certainly the background to Hayden Phillips and what we heard this morning, and yet you have all given us really rather

persuasive arguments for why those simply will not work. So the question I really put to you is if it really is the case that neither of those will work, it is not clear to me that this Committee can do anything useful. We do not want to be in the position that you have just rather eloquently described of coming up with what looks like the solution, sort of Hayden Phillips plus, and it falls apart. If there is some - never 100 per cent, but let us say 95 per cent - solution to these technical problems of making caps effective, then I think there is a great opportunity for this Committee to do something useful. Now, I am sorry to have taken so long to put the question, but which way should we go on this?

539. PROFESSOR FISHER: To start with your first point about "It points to capping expenditure" I do not think it points to capping expenditure at all. One of the sensible things introduced by PPERA was a cap on national expenditure, but set at such a level that it did not mean that parties could not campaign effectively. There is a real danger if you lower the cap too brutally that you take the power from politicians who are standing for election and give it to unelected actors such as newspapers. Election campaigning is a good thing. It ignites interest in politics. It does increase turnout. We have clear evidence that the more parties campaign, the more the turnout goes up. I think it would be a slightly perverse conclusion to strangle what parties can do in terms of their campaigning because of concerns about big money.

540. What is also apparent from the practice since PPERA is that caps on spending have had no effect whatsoever on the level of money going into politics, and the important point to remember is that the majority of the money that parties spend is not on elections, it is on maintaining the party infrastructure. Parties usually - this election was slightly different for Labour - do not have trouble raising money for general elections. They have trouble raising money in the immediate aftermath, and that is the period in which if you are going to see problems, it would be in this particular period, straight after a general election, because who on earth is going to give money so that we can pay our staff or pay for the photocopier, et cetera? It is very much at that level.

541. Now, in terms of whether or not things could or could not work, I think it would be a significant judgement call at this stage to say that we do not think that there are any circumstances under which a cap in donations could or could not work. That would seem to me to be a job for those drafting the legislation. It strikes me that the role of the Committee here is to focus on the principle of whether or not there should be a re-examination of these issues, not to examine the minutiae of whether or not there could be loopholes.

542. DR PINTO-DUSCHINSKY: Can I just come back to the point that Keith was making, that donations are continuous but expenditure is not? The proposal in the Phillips report was that there should be a cap on total spending, national and local campaigns and throughout, and so it would have caught the local bazaar as well as a national campaign activity. It was because of that all-encompassing nature that it becomes so very difficult to regulate, so it is exactly the opposite of what Keith was saying, and that is the

huge difficulty of that.

543. Now, coming back to the role of the Committee investigating this subject, I think that it is undoubtedly true that this Committee is exceptional in British public life as being the most credible watchdog body that we have, that its achievements have been far greater than those of any other body and it has a major authority since it was founded. It is also true that among its most influential reports whether it was the fifth report on party funding, I think prima facie does have a real status and standing in this area to do a neutral and deeper inquiry into this area. I would certainly not be deterred from doing that. I would not see the form of the inquiry as being an excuse for politicians to get more public funding that they cannot directly ask for themselves.

544. What we have had today is a lot of the parties saying, "Of course we do not want more. It is terribly difficult circumstances" but actually, we do want more public funding. I do not think you want to act just merely as a cover for them to ignore public opinion and just give parties a whole lot more money unless there was some real argument. I think you have a chance to look at the structures of British political finance now and to define what the problems are in an area that is wider than the rather narrow areas that Hayden Phillips took up because of his narrow scope.

545. So I would look at third party funding. I would like at indirect state funding. I think you can actually make a major contribution in public understanding in those areas as to what is going on. I think you do need to look at large donations which is a problem and I think you can also try to deal with the point Jack Straw and Keith Ewing have made, namely that they do have traditions within the Labour Party. They are asking the other parties in the coalition not to ride rough shod over the Labour Party and I think that should be taken seriously but not necessarily to the point of blocking all change. So a neutral body like yourself can take account of the concerns Keith had done but maybe not to the point of saying, "You should not regulate donations at all". So I would go ahead. I think it is very timely because if you do not do it, then it will be done in a much more hasty and less qualified way by others.

546. PROFESSOR EWING: As I said, I think the idea of a legal cap on contributions superficially is an attractive one but it is a superficial attraction only. I think so far as Phillips is concerned on this issue by addressing the practical problems, he was superficial and I think one issue that could be addressed by this Committee is to look again at the question of whether a contribution cap could be made to work in practice.

547. The view of this Committee, in 1998, when the matter was looked at in much greater detail than it was looked at more recently by Sir Hayden Phillips, was they thought then that it is simply an enforceable form of regulation and, in a sense, you are just trying to regulate something which is not capable of being captured. What has happened since 1998 and today that makes it easier to regulate this particular form of activity; I do not know. I am not convinced anything has happened to make it easier to regulate contributions

but this Committee certainly was convinced in 1998 that this is not something that could be easily tackled.

548. Related to that is another question which arises in the context of the present economic situation. If you are going to go forward with a system of contribution caps that will require, as the Committee in 1998 acknowledged, an army of people to regulate, enforce, investigate and to supervise. We are not talking about making major cuts in the civil service. What civil servants are going to be deployed to this particular activity to ensure this particular area of the law is complied with when all these other civil servants are being made redundant and being dismissed elsewhere?

549. The other point I would make in relation to this, even if we did put the resources in, is just look back over the last 50 years. We have an area of law which some people refer to as political law which deals with the law, regulates local parties, candidates and so on. How many successful prosecutions have there been for a breach of any of the legislation in that period despite the best efforts of the police, it may be said, in recent years to secure a prosecution? The answer is nil. I cannot think of any prosecution in this area of law and I cannot think why introducing legislation of contributions, given the problems that would arise, would lead to any successful prosecutions on this area in the future.

550. I come back to the point; what do you end up with? It is not just something which is superficially attractive but you end up drafting a law which is just a framework of meaningless platitudes that actually satisfies our desire to be seen to be doing something but actually, it has no impact at all in practice and ends up, in the long term, in simply bringing into disrepute, not just the law, but processes such as this.

551. SIR CHRISTOPHER KELLY: Thank you. I am not suggesting it has not but it could have had a preventative effect.

552. PROFESSOR EWING: It certainly could have, yes.

553. SIR CHRISTOPHER KELLY: So even if there were not any successful prosecutions, there could be better behaviours.

554. PROFESSOR EWING: That would one possible way to explain the situation, certainly.

555. PROFESSOR FISHER: That is an important point. The same logic applies to the 1925 Corrupt and Illegal Practices Act. There has only been one prosecution in the early 1930s but the measure of law seems to me to be not just about the number of convictions but the boundaries in terms of behaviour that it sets. Keith is right; there is no point in establishing another Dangerous Dogs' Act but equally, if by establishing regulation you set acceptable boundaries of political activity, that strikes me as a reasonable goal to which an individual might attain.

556. PROFESSOR EWING: Can I just come back on that point? As a Committee, if you think it is wrong for the parties to be accepting large political donations, why do you not put it to them, "Why are you accepting these donations if you believe them to be wrong in the first place? Why do you need to be told by the state that this is bad practice? Why can you not regulate your own conduct in a way which is thought to be acceptable to the people you purport to represent? Why do you need law to do this? You are the authors of your own fortune"?"
557. SIR CHRISTOPHER KELLY: That was a question on my list to ask at a later stage.
558. ALUN MICHAEL: I am interested in the direction the discussion has gone because it reminds me of my favourite quotation from Gibbon which is that laws will only prevent what they forbid. As a legislator, in general, I fear we very often end up with bad law because we try to regulate and deal with the last crisis or the perceived problem rather than saying, "What is this really all about?"
559. I just wonder if we can put some of this on one side for a moment and try to think more broadly. If you would take the point Professor Fisher made a few moments ago that if you take the initiative away from political parties and somehow control them to the extent they are virtually unable to do anything; what you do is to put everything in the hands of the press and the media in terms of how any political debate takes place. I suggest that is where we are anyway.
560. Is it not the case that what drives the need for income is the need to spend money in order to ensure you are heard or seen or listened to in any way and are there better ways of creating an environment in which the political parties are able to put forward their policies, whether it is specific policies in this particular area or it is a manifesto or it is the comparison of the individuals? Is it possible for us to think of doing that in a different way because then the importance of both the income and the expenditure diminishes because you have a better situation especially with new media and things like that? Are there some ways in which we could actually change the environment in which the political debate takes place both at election time but arguably more generally?
561. PROFESSOR FISHER: I return to the point I made earlier that, of course, parties need to raise money to have their voices heard but they also need to raise money to engage in the activities that go on behind the scenes in order to have their voices heard. It is one of the great myths of British politics that all the money is blown on billboards or whatever. In fact, it is 'blown', if you like, on salaries and so on. Are there better ways in which parties can get their message across?
562. ALUN MICHAEL: I am sorry; that was not my question. The question is whether we, standing back from the parties, create a different environment because whether it is a perception or not, there is a perception that if we do

not do X, Y and Z, that lot over there will and, therefore, we have to keep up to the mark. Do you see the point?

563. PROFESSOR FISHER: I do see the point. The honest answer to that is nobody knows. Nobody knows exactly what kinds of campaigning tools work or not.

564. ALUN MICHAEL: Should we not be thinking about the campaigning environment rather than just leaving it to the discovery of a new sort of act?

565. PROFESSOR FISHER: Is it the role of the state to determine how parties go about their campaigning within the limits of saying you should not spend more than X?

566. ALUN MICHAEL: Arguably we are talking about limiting parties in a variety of different ways, are we not? We are talking about saying, for instance, one of the issues is whether income has to be related to individual decisions rather than collective decisions to affiliate or to support a party. We are entering into all sorts of areas and there is a relationship between those two things, is there not? Do you see what I mean?

567. PROFESSOR FISHER: I do but I do think it is important to remember the activities that parties engage in, campaigning activities and so on and so forth, do generate public interest in politics. It is demonstrably true; the more parties engage with some things that spend money and some things that volunteer activity, things like turnout go up.

568. ALUN MICHAEL: With respect, can I suggest one of the things we talked about earlier was the amount of effort that goes into parties engendering documents which put over their policy which goes through doors which actually result in more people switching off? They feel they have to do it because that is part of the competition.

569. PROFESSOR FISHER: With the greatest respect, none of the people you spoke to this morning have measured it and I have. I and my colleagues can demonstrate very, very convincingly, these sorts of activities make a difference. It is one thing to say there is a perception we are wasting money here, there and everywhere but they have not analysed it and they do not know. I do think it is important we recognise campaigning is not a dirty word. Campaigning is a good thing and there is a risk, at local level at least, that we over-regulate the activities of volunteers and we turn people off politics because parties are hamstrung in what they can do.

570. ALUN MICHAEL: But my question is about instead of looking at the regulation of income and expenditure, should we be looking at the way in which we create fairness and opportunity for those campaigning activities, if you like, not to depend as much as they do at the moment on the financial and fundraising?

571. DR PINTO-DUSCHINSKY: I have been trying to understand what has been going on in this exchange. There is a view that of course political parties are important, that they ought to be set up in a position where they do not have to worry about the jumble sales; they can get on in doing their real work which is dealing to the electors.
572. The trouble with taking that into account is it leads to a system of state funding where the political parties are given the wherewithal to employ their staff and they can go ahead but, in practice, what is going to happen is the amount of money each gets depends on bargaining with each other.
573. ALUN MICHAEL: That sounds like a statist approach. I am asking you if there is a better way of doing it than just handing on again, the financial equation, public subsidy rather than fundraising.
574. DR PINTO-DUSCHINSKY: I think there is quite a lot to be said for not interfering more than one needs. Political parties do have a vital role but their role depends on their ability to be free agents and to establish their role. The trouble is if one subjects them to an exceptional amount of control that you disadvantage political parties, vis-à-vis other less directly democratic organisations, and that has happened in many parts of different political systems with the decline of political parties often through both subsidy and regulation but the growth of other campaigning bodies that do not appeal to the electors and I put in my paper that you also get the growth of non-democratic institutions if you go into a PR system where elections do not directly determine the government anyway.
575. So you can have various things going on in the comity that leads to a decline of the directly democratic institutions and the growth of other forms of political influence. I think that is dangerous. I think we do want to leave political parties with the maximum of leeway and that is where I tend to agree with Keith that you do not want to attack the internal running of a party in general. You do need a minimum of regulation in order to stop corruption and gross unfairness.
576. PROFESSOR EWING: I know what you mean about the leaflets but do not knock them because both the print workers and the post office workers rely on them because they are actually quite important at election time. My sense from the question is how can we suck some of the costs out of the election process? One thing we do in this country, which is fantastic compared to any other country in the world, is the system of party election broadcasts which we provide to the parties free at the point of delivery. If the parties had to pay for that, if we had a local competition, then the cost of elections in this country would be much, much greater than they currently are.
577. My thinking is if this is the direction of travel of the question, then I would agree with that in the sense we need to find other ways of this kind to provide that some of the costs, which are currently incurred by the parties and candidates, can be absorbed in this kind of way. An example of this when the problem of the billboards was all the rage about ten years ago, and as Justin

has pointed out, the problem has subsided a bit, but rather than have big billboards which parties are having to buy at great expense because of the monopoly position of the owners of these billboards, why do we not do what they do in European countries which is to provide free advertising space on billboards provided by local authorities which are allocated to the parties on some fair basis? Things like that would be very useful for this Committee to explore.

578. What other areas could be done by the state or local authorities or whoever to draw some of the costs out of the process and to enable campaigns to be run in the way Justin would like; in a way which is effective but at a better cost than is currently the case? The other thing which struck me which also decks Sir Hayden Phillips' proposal is that since Hayden Phillips reported, we have had an election and in that election, there was an interesting innovation which was the leaders' debates. That is going to have a huge impact in the future on the way in which elections are conducted in this country and I do not think we have really got to terms with the impact of that (a) on the nature in which campaigns are conducted and (b) on the implications for the funding of these campaigns because the whole thing is going to be focused now on these three or four key events which will take place during the campaign period. In a sense, it is your point that says we are regulating for the past; we should now be regulating for the present and the future.

579. DR PINTO-DUSCHINSKY: We know in all probability, the advent of the debates lessens the importance of funding because it means if you do not have many billboards but you have your man or hopefully, woman, in future in the debate, then it is much more important to win the debate.

580. SIR CHRISTOPHER KELLY: That is precisely Alun's point I think.

581. DR VALLANCE: Sweeping up after that lot is quite a challenge and it seems to me what Alun is suggesting and what you are responding to there becomes a much deeper issue; it is not just as Professor Ewing has said, "Sucking costs out of politics", it is actually asking a fundamental question about what politics or political parties and political party funding is for.

582. We have to go back to saying, "What should they be doing and what should they not be doing?" which is a big challenge for us. It is a very, very fundamental question. What do the parties need to be doing to do their job? That is really what it is about and that really would be a challenge and certainly respond to that, please.

583. Can I take you into the things you have said in response to Derek because I started off feeling like him, "My goodness, what a hatchet job they have done on all the things we thought were the kind of stakes in the ground, on donation caps, on expenditure caps, on state funding and so on". In principle, of course, as you have pointed out, nothing works or in principle, on the other hand, everything works. It depends on the examples you choose

because we always go on examples once we have stated principles.

584. What works, I would ask you, in each of these cases elsewhere? Let us get some empiricism in here! What works where donation caps are being used elsewhere? I am perfectly well aware of the invidiousness of cross-cultural comparisons but, nonetheless, with that as a caveat, what works for donation caps, expenditure caps and state funding elsewhere, if anywhere?
585. PROFESSOR EWING: I think that is a real challenging question. I would like to respond to two points. I will come back to your opening comments. As far as the question is concerned, together with a colleague from Columbia University, we put together a collection of essays which drew from the experience of a number of different countries in 2006. I remember he wrote a nice piece in the introduction quoting from Tolstoy. What he basically said was from the experience of all these countries, everybody is equally miserable in the sense that nothing works anywhere. Everybody has the same concerns about their own system.
586. The lesson I would draw from comparative experience is everybody is searching for the Holy Grail and we are looking for something that will work and the answer is nothing will work. We will never find the perfect system. We should stop trying to find the perfect system. We should try to do the best we can in the circumstances where we are at the present time.
587. Going back to your comment, why that is so important is because you rate his questions about not just what he is funding for but what are political parties for at the present time, given the declining membership, the increase in the rise of the leadership within the power of leadership within political parties? I would urge you, as a Committee, if you are contemplating any reform in this issue, we have to begin to look again at this issue of party membership and party activity and the one thing we should be trying to do for the health of our democracy is to encourage more people to join and to take part in political parties and to look at whether we can encourage the parties to open up their procedures so they are seen to be more democratic and more to be under the control and influence of the members of the party rather than dictated to by leadership of the party.
588. With that in mind, I find it simply incredible that we would contemplate a situation where we will give over every year a chunk of money to a political party which would then be used by the leadership of the party to run the affairs of the party without any need effectively to account to the members of the party. State funding of that kind which has been advocated by Phillips would undermine still further the role of voluntary members of political parties and would enhance the power of party leaderships. I cannot begin to think that would be a good thing.
589. DR PINTO-DUSCHINSKY: I was interested thinking back 12 years ago, Professor Ewing, and saying those things. I tend to agree with a lot of what he said. It is possible to turn to the Swedish system where state funding goes locally as well as nationally. I agree with him that money affects the

structure of power in a party. I certainly think if you had an overall cap in spending, it would lead to a huge centralisation because you could not have it without one regulator of every single bit of local funding accounting. That proposal would have a huge effect on that. I agree there is a major public interest in promoting those democratic and elective institutions we have in our society and that are under threat for a lot of reasons. That is number one.

590. The second answer though is in asking what political parties are for and defining the functions, are they policy making, aggregating interest, running elections and the kinds of things that political scientists and Tony King and the late Professor Fynan(?) went through, I am not sure whether it is our job to tell the political parties what they should be doing. We can look at what they are doing, but I think we ought to leave a maximum of leeway for their interpretations of their functions.

591. PROFESSOR FISHER: To go back to your original question, what works and what does not; to be horribly academic about this, it depends what you mean by "works". If you take state funding, for example, state funding has completely failed to prevent corruption in respect of party finance around the world. If you want to introduce state funding as a tool to remove it, it will not work. What it has done - where it has succeeded in some ways is equalising electoral contests a little bit more and meant that parties have a basis for their core funding. It depends what you want the state funding for.

592. In terms of donation caps, on the one hand it clearly diminishes the liberty of people to spend money as they wish. It does present problems for parties that are organised in the way the Labour Party is in terms of its constitutional arrangement, but if you take an example like Canada where the decision has been taken to ban any donations except from individuals, it does establish a clear principle of political equality amongst those people who are funding politics.

593. In terms of expenditure caps, I have to say despite some of my misgivings; this is one of the successes of British legislation. I would agree with Keith certainly that the ban on advertising on broadcast media has been a huge success and one which should be defended to the hilt. The manner in which it has been employed in the United Kingdom and the level at which it has been set at national level has established a clear boundary without impinging upon the active life of parties.

594. I do have misgivings, and I say this in the paper about the level of which it is now set at local level but, by and large, it has been set pretty well. As I say, and I go back to the point I made earlier, there is a danger of strangling the activity of volunteers in parties if you set the caps too low. Finally, just to pick up on a point Keith made. There are dangers of over-centralisation although it is worth making the point that centralisation of parties occurs whether you have state funding or not. Indeed, I would certainly agree we need to encourage more people to go into politics. The future is not one of encouraging people to become members; rather to become supporters because the mass membership model of political parties, if it ever existed,

strikes me as dying on its feet.

595. DR PINTO-DUSCHINSKY: This will be my final comment. I would like to underline that I think it is a valuable area for you to investigate as long as you look at your agenda carefully. One of the things I would have a slight question mark about is the word "fairness". Fairness in political funding is a very movable word. For example, if you talk about the concept of fairness in the allocation of party broadcasts, you could have one concept of fairness that everybody must have the same; you could have fairness that opposition parties have more because they have less or you could have fairness in that bigger parties have more. So the word "fairness" is not going to get you there. It is just going to get into an argument as to what "fairness" is.

596. As far as fairness between big and small parties, you have to mind out about this. You do want to be fair on new and small parties but I notice we did not have the BNP and Sinn Fein here today. It may have been a more interesting but more disruptive meeting had we done that but remember they would come in as well as the nice parties. I do not want to liable any other parties like Sinn Fein and the BNP unnecessarily but you know what I mean.

597. The other thing is you can get to the French situation where they had 246 new parties because the financial rules made it very profitable to set yourself up as a party and then claim the proceeds out of a misjudged version of fairness. That has happened in Thailand as well where a newspaper, the Bangkok Times, showed that a political party was a hut but the hut was set up because, under their laws, if you are a political party, you get money. You have to mind out.

598. SIR CHRISTOPHER KELLY: Thank you. Are there any other final thoughts you want to ask? Thank you very much. That has been an extremely interesting session which has left us with a lot of food for thought which we will now have to find some way of digesting. Thank you very much indeed.

Opening Statement from the Rt Hon Jack Straw MP, Shadow Justice Secretary

7 July 2010

1. The way political parties raise and spend money is of central concern to the operation of any democracy. That is because political parties are an indispensable feature of the political system. They make parliamentary government possible by providing voters at elections with a choice of different policy platforms. Between elections they play a key role in governing the country, in better articulating both support for, and opposition to the government of the day, more generally in holding government to account and providing a direct link between Parliament and the people.
2. To discharge these functions effectively, political parties need funds. This is unavoidable. A central aspect of party activity is therefore concerned with generating income and spending it effectively.
3. It has long been recognised that the centrality of finance in the operation of parties opens the political process up to some risks; principally, the risk that the political battle, which ought to be between competing ideas and visions, is instead overtaken by a chase to raise and spend the most money in the belief that such expenditure can play a decisive role in winning electoral support.
4. In Britain a rumbustuous and deeply corrupt system – so brilliantly illuminated in Dickens’ *Pickwick Papers* – became subject to reform by the late Victorians.

5. In order properly to understand party finance and expenditure controls today, and how they might be developed tomorrow, it is useful briefly to recall the origins of the present system.

Origins of party finance and expenditure controls

6. The basic principles of what is now our modern system of controls was developed in response to shocking revelations about excessive political spending - amounting to bribery – in the general election of 1880. Spending in that election was so huge that in real terms it appears never to have been exceeded (F.W.S. Craig, *British Electoral Facts, 1832-1987*).
7. These concerns led directly to the Corrupt and Illegal Practices Act of 1883, which placed severe limits on campaign expenditure in constituencies. In practice, this restricted almost all election spending because campaigns were at that time conducted primarily at a local level. The Act provided for the regulation of candidates' election expenses by setting a maximum limit on expenditure by or on behalf of candidates at parliamentary elections.
8. Despite some subsequent amendment the basic principles of the 1883 legislation remained relatively unchanged until the 2000 Political Parties, Elections and Referendums Act (PPERA, which implemented the key recommendations of your Committee's 1998 Report).
9. By 2000 root and branch reform was long overdue because of the change in the focus of election campaigns, and therefore spending, from

the constituency to the national stage. Post war developments in communications, above all the arrival of television, meant that Parliamentary elections were no longer fought wholly or mainly at a local level.

Political Parties, Elections and Referendums Act 2000

10. PPERA, which Labour introduced with all-party support, aimed to fill the gap that had been created in respect of national election spending. It set a cap on national party expenditure in the year before a general election at £18.84 million for each party. As mentioned above this Act flowed directly from the recommendations of an inquiry into party funding by the Committee on Standards in Public in 1998, chaired by Lord Neill, which found that it was illogical that controls were directed exclusively on election candidates' expenses alone.

11. The Neill Committee discussed two key aspects of the system on which they had received evidence:

(i) Transparency of donations

The Committee said in its final report that “the ordinary voter is apt to suspect that a very large gift to a political party must be made with a specific object in view”. However, the Committee found little justification for this suspicion – “We have been given no evidence that leads us to doubt that nearly all [large donors] give generously either because they support the general aims of the party which they finance, or in order to minimise the risk of the other party attaining power.” The Committee’s response to this concern was not to propose donation caps, which it ruled out, but to propose

instead almost complete transparency of parties' income and spending. The Committee said that there was a "compelling case" for the public to know when a significant donation was made to a political party which might raise questions or prompt suspicion. They were persuaded that a new system, based on full transparency of large donations, should be introduced. The 2000 Act therefore required full disclosure of individual donors whose donations exceeded £5,000 at a national level, and £1000 locally. The Electoral Commission was established to be the guardian of this register, and to undertake a range of other functions.

(ii) Foreign donations

The Neill Committee judged that donations to political parties should only come from sources with a significant connection to the United Kingdom. The 2000 Act therefore effectively banned donations from foreign sources without a sufficient UK connection.

12. The excellent work of the Neill Committee, followed by the introduction of PPERA, equipped Britain with a more tightly regulated and transparent political landscape. However, as subsequent events demonstrated, the 2000 Act did not plug all the holes in the system. The difficulties which all parties experienced led two further inquiries into party finance and expenditure – one by the Constitutional Affairs Select Committee (CASC) and another headed by Sir Hayden Phillips – to conclude that the system required additional reform. Alongside these inquiries, in 2007 the Committee on Standards in Public Life reviewed the operation of the Electoral Commission and recommended changes to its governance and powers.

Hayden Phillips' Review

13. Sir Hayden Phillips strongly endorsed the view of the CASC that the 2000 Act had “sought to control the level of spending, but it has proved inadequate to the challenge”. Both reports also argued that requirements on the transparency of political donations, though a significant and progressive innovation, were not strong enough. Although some of the gaps in PPERA, notably in respect of controls on loans, had been solved by the Electoral Administration Act 2006 (EAA), Sir Hayden advocated some further significant changes to the regulatory system.
14. In two reports published in October 2006 and March 2007, Sir Hayden set out broad principles for a new framework of regulation which had increased state funding at its heart. Sir Hayden’s interim assessment made clear that he wanted to consider the case for limiting both political spending and donations. But he noted that “it may not be sustainable to set a limit on donations without some increase in public funding if the financial health of parties, and not just the large ones, is to remain stable.”
15. Sir Hayden’s second report, *Strengthening Democracy*, was more firmly of the view that the “price of a fairer, more stable system of party political financing may be some increase in public funding of political parties.” On that basis he proposed a cap of £50k on donations from individuals and organisations. However, he noted that affiliation fees paid by trade unions should be exempted from that cap on the basis that they represented an amalgamation of millions of contributions by individual trade unionists. He stated: “In my calculations of the impact of my

proposals on the parties, I have assumed that the Labour Party will continue to benefit from the payment by individual members of affiliation fees through trade unions. If this assumption is not made, the financial impact on the Labour Party would be greater, and the financial calculations in this report would have to be reconsidered.”

16. In early summer 2007 Sir Hayden chaired a series of inter-party talks aimed at achieving cross-party agreement for a practical scheme based on his principled framework of spending controls, donation caps and increased state funding. A round of constructive discussions took place, following which (in late July/early August 2007) Sir Hayden produced a draft agreement built on four central recommendations:

- Continuous, all-encompassing expenditure limits to curtail the spending “arms race”, which drives the demand for large donations;
- A £50k cap on donations from individuals and organisations to secure equity between the parties, with exemptions for that part of trades unions’ contributions which came directly from the affiliation fees to the Labour Party paid by each union in respect of its members paying the political levy, but with no exemption for the block donations made to the Party.
- In return for adhering to a donation cap, eligible parties would be entitled to receive increased public funding determined broadly by the levels of public support they enjoyed; and

- The Electoral Commission would be reformed to strengthen its capabilities as an effective regulator.

17. Owing to an inability to schedule a meeting in July 2007, Sir Hayden's draft agreement was circulated to the parties by post in August, and reflected what he and his officials believed to be broadly within the limits of what each party would accept.

18. A meeting to discuss the draft agreement was scheduled for 3 September 2007. But at the request of the Conservative Party that meeting was cancelled at the last moment – and then postponed a second time. The inter-party talks did not finally reconvene until 30 October 2007.

19. By that time, it had become apparent that the Conservative Party was disengaging from the process. On 23 October David Cameron wrote to Gordon Brown to say he did not believe Sir Hayden was producing a viable proposal. The letter was published by the Conservative Party, thereby breaching an agreement between the parties to keep the content of the talks confidential. Although the Conservative representatives attended the meeting on 30 October it was no surprise to the other parties when they refused to negotiate on Sir Hayden's draft agreement. As a consequence the talks were suspended.

20. David Heath MP, the lead Liberal Democrat spokesman in the talks, (now Deputy Leader of the Commons), commented at the time: "For the Conservatives to now, in effect, walk away is a tragedy and very short-sighted on their part." (30 October 2007). He subsequently told the House of Commons: "The hon. Gentleman, from a sedentary position,

invites me to talk about the unions, but we did so and in fact reached a broad consensus about them [in the Hayden Phillips process]. That was fine until June, but then something happened in Central Office—I do not know what it was; perhaps someone came in and said something—and then for some reason the attitude of the Conservative party’s negotiators changed and we were not able to have the meeting in July. When we came back, it was clear that there would be no conclusion to the talks.” (Hansard, 4 December 2007)

Party Finance White Paper and Political Parties and Elections Act 2009

21. Nonetheless, the then Labour Government continued to hold discussions with interested parties and in the Queen’s Speech in November 2007 committed to bring forward proposals on reform of party finance and expenditure. A White Paper, published in June 2008, fulfilled that commitment.
22. It was based on the same approach which informed the implementation of the Neill Report – the premise that a satisfactory solution to the current problem should transcend the interests of any single party, enjoy the widest possible measure of public confidence and only be undertaken on the basis of a broad political consensus.
23. To that end the White Paper paved the way for the Political Parties and Elections (PPE) Act, which was, again, passed with all-party support in 2009. The Act reformed the Electoral Commission to strengthen its regulatory capacity (as your Committee had recommended); increased transparency of donations (especially those by unincorporated

associations); and introduced a limited extension of controls on candidate spending outside of the 'short campaign'.

The current position

24. As a consequence of this and other legislation, any fair assessment of the framework of party finance and expenditure controls in Britain today would have to conclude that the system is fundamentally sound. There is a high degree of transparency regarding donations; there are prohibitions on foreign donations; there are limits on spending by candidates and by national parties; trade union political funding is highly regulated; and the entire system of party finance and expenditure is overseen by the independent Electoral Commission.
25. While there may be still areas where stronger controls could be beneficial overall the regulatory system is strong and evidence of serious corruption is scarce.
26. In short, British politics is fundamentally clean and considerably cleaner than politics in many other countries. There is no emergency. The system is not in crisis; it is broadly working.
27. That is not to say that radical reforms of the kind proposed by Sir Hayden Phillips should not be contemplated but rather to caution that before such changes are made it would be necessary to demonstrate conclusively that they would deliver a more equitable, workable and practical system than current exists.

28. They would also need to command broad political and public support, especially if an increase in state funding was involved, which could only be achieved through a full public debate. If the Committee were to consider initiating such a debate, these are the key issues that it might wish it to cover:

Spending limits

29. First, expenditure. The priority, at the time of the Neill Committee report, was to curb the huge levels of national expenditure that had increased over the 1980s and 1990s - much of it channelled into national advertising campaigns. However, parties' behaviour has changed since then, and we have seen a return to concentrated political spending at the local level but over a more prolonged period.

30. In an effort to respond to this change in the nature and pattern of party spending, the PPE Act 2009 introduced limits on candidate spending in the months immediately preceding the short campaign. While the short campaign itself had long been covered by controls in the RPA, the absence of any controls on candidate spending in the pre-election phase had allowed vast spending to distort the electoral process at a local level.

31. Although the new controls on candidate spending represented a forward step, there remains significant scope for unregulated spending at the local level outside the short campaign period. It may therefore be necessary both to reassess the level and the coverage of the pre-election candidate spending limit. In an era of constant electioneering many argue that there is a need to control all campaigning expenditure all of the time.

32. In the past it has been the absence of fixed term Parliaments which has created intense practical and legislative difficulties to establishing effective and continuous spending limits. Essentially, beyond the certain term of the short campaign, the limits have, in effect, had to work backwards from the date of General Election. The introduction of fixed-term Parliaments, expected in legislation soon to be introduced into the Commons, would significantly simplify the technical arrangements for comprehensive and continuous limits on spending. (The existing rules should remain for those Parliaments which cannot run their full fixed term, through a loss of a confidence vote etc).

Donation limits

33. A second important question is whether caps should be placed on donations. At first sight, this seems an attractive option that might remove both the suspicion of, and potential for, undue influence being exerted on political parties by financial backers.

34. Internationally, donation limits are a feature of some but by no means all arrangements for controlling the financing of political parties. Although the Neill Committee argued emphatically against the imposition of donation limits when it considered the matter twelve years ago, the proposal was made by Sir Hayden Phillips.

35. It is clear that, unless they were set so high as to be nugatory in their effect, the introduction of donation limits in the UK would reduce parties' income; and unless there was some other source of income to plug this gap, would create a major crisis for the operation of all parties. For that reason, and consistent with his terms of reference, Sir Hayden

proposed schemes for increased state funding linked to a cap on donations (which he recommended should be set at £50,000 per annum for individuals and organisations, though he recognised that affiliation fees ought to be treated separately).

36. However, a decision to cap the maximum level of donations to political parties alongside increased state funding requires careful further consideration. Central to this is the question of what the appropriate level for any donation cap would be. The £50,000 figure advanced by Sir Hayden is well above the level imposed in most countries that have a donation cap. Donations of this size are far beyond the reach of most citizens. Donation limits are susceptible to avoidance by wealthy individuals, who would find it easy to make numerous £50,000 donations through other family members, as happens in the United States. If there was to be further consideration of a donation cap there would need, as the 2008 White Paper suggested, to be a thorough examination of the case for significantly lower limits, (perhaps even down to the region of £500-£1000) as to whether these would be more equitable and democratic, and less susceptible to avoidance.

37. Even then, a donation cap would by no means be straightforward to implement. The US experience demonstrates rather too well the unintended consequences of what is theoretically a good idea. Prevented by the Supreme Court from having caps on expenditure - which were deemed unconstitutional - the US introduced restrictions on donations. These restrictions in turn have given birth to an entire avoidance industry of third-party single-issue and negative campaigning organisations. Significantly, Neill described US campaign funding as

“...an example of a well developed system which none the less suffers from frequents incidents of evasion”.

38. Among the third party groups set up to get round this “well developed system” are so-called ‘527’ groups - named after a section of the US tax code - which establish themselves independently of the political parties and candidates in order to influence the nomination, election, appointment or even defeat of certain parties and candidates. There is no limit on the amount of money such groups can spend on single issues and voter mobilisation. Although under federal law, co-ordination between 527 organisations and election campaigns is forbidden, recent elections have witnessed heavy spending by such groups with the sole purpose of attacking presidential candidates.

39. Of more fundamental concern is the way the funding laws could be contributing to the growth of single-issue politics. The effect of the campaign finance rules has been to channel money away from mainstream political parties into single-issue organisations, which are becoming increasingly powerful. That is not to say that single issue groups do not have a part to play in the political process, but they should not become a substitute for political parties. It is only political parties which have to face up to the most difficult choices of all in a democracy, the choices between competing policies and inevitably finite resources.

State funding

40. A third key issue is whether, and to what level, state support for political parties might be increased. State funding already exists through "Short" and "Cranborne" monies, as well as through the Policy Development Grant. These forms of state finance have done much to

professionalise the support network for the official Opposition, and therefore to ensure the Government is held to account.

41. Whether the current level of state funding is the correct one, or whether an increase would be justifiable, depends on whether other options for change are taken forward and whether the public would support an increase. There will always be a need for balance - it is no good having the most transparent and honourable system if political parties are left without the means to operate on a professional basis or to conduct considered research to scrutinise the issues of the day.
42. Furthermore, it may be that new mechanisms of state funding could act as a lever for a closer connection between parties and the public. But again there is a balance to be struck. There is a risk that substantial state funding, handed out as a block grant, could lead to further disengagement by undermining the organic quality of political parties and rendering them creatures of the state.
43. While it might create a stable financial environment in which parties to operate, it would provide little incentive for them to recruit, retain or respond to their members. Any scheme for increased funding, if that point is ever reached, should therefore be directed at stimulating a renewal of parties at grass roots level; for it is here that the stimulation is most urgently needed.

Conclusion

44. Whether we as individuals support a particular party, or have no such affiliations, we should be proud of the existence of the political

parties in this country, and respectful of their different traditions, backgrounds and structures. They are central to the health of democracy - offering the country a range of policy and political choices.

45. So any discussion about party finance and expenditure must be about more than how we regulate the money raised, and spent by, political parties. We should be thinking about how we create a long term system of funding that both provides the public with confidence and the parties with an environment in which they can grow and flourish.

46. In so doing it is essential that the debate is not restricted to the political parties and the political establishment but directly involves the public. Fundamental constitutional change is best achieved where there is a broad consensus across the political spectrum.

47. That was the spirit in which the reforms advocated by the Neill Committee were enacted; that was the basis on which subsequent reforms were carried through and it is the basis upon which future changes should take place.

Opening Statement by Professor Keith Ewing

Committee on Standards in Public Life

The Funding of Political Parties

Introduction

1 In March 2007, Sir Hayden Phillips completed his *Review of the Funding of Political Parties*. This was the most far-reaching review of the matter since the inquiry conducted by the Committee on Standards in Public Life in 1998. The latter – which gave rise a measure of consensus between the three parties on critical issues - led to the Political Parties, Elections and Referendums Act 2000. The 2000 Act has been amended twice since it was brought into force in 2001 (in 2006 and 2009), but the key features of the original framework remain largely in place.

2 The settlement in 1998 was based on a number of underlying principles. First was the idea that donations to political parties above a certain amount should be fully transparent; secondly there should be restrictions on who should be permitted to give money to political parties (with a ban on foreign donations); thirdly the regulatory burden should be carried mainly by election spending limits on parties and candidates; and fourthly the State's already significant role as a source party funding should not be greatly extended.

3 The Phillips' review made a number of recommendations that would disrupt this settlement. In particular, it was recommended that a limit of £50,000 annually should be introduced on donations to political parties; that is to say that an individual or company would be permitted to donate no more than £50,000 annually. It was anticipated that this would lead to a decline in the income of political parties, so it was also recommended that the State should fund political parties which qualified for the proposed State subsidy. This was expected to cost the Treasury about £125 million over the life of a Parliament, at a time now of proposed public spending cuts of between 25% and 40%.

Asymmetrical Party Structures

4 The principle that large personal and corporate contributions should be limited is compelling. There are, however, reasons why that principle is difficult to operate in the United Kingdom and in other countries which have the same model of party organisation. Unlike say the United States, our parties do not come out of the same mould and are not symmetrical in terms of their organisation and structure. For these reasons the principle of donor restraint may have to be addressed by means other than the blunt instrument of flat rate contribution caps. We cannot operate on the basis that all political parties have the same organisational basis as the Liberal Democrats: that would be both illiberal and undemocratic.

5 The main obstacle to a flat rate contribution cap on the US model is the organisation and structure of the Labour Party. The Labour Party was formed in 1900 by trade unions to represent their interests in Parliament, and over the years generations of electors have thought it desirable that these interests should be so represented. The constitutional structure of the Labour party today reflects its origins as a party of organised labour, and it remains the case that the party is an organisation of individual members and associations (trade unions and socialist societies). **In the latter case, it is the trade union and**

socialist society and not their members that is a member of the Party, a form of party organisation that is by no means unique to the United Kingdom.¹

6 As affiliated members of the Labour Party, trade unions and socialist societies at present enjoy certain contractual rights under the constitution of the Party. These include (i) participating through the electoral college in the election of the Party leader and deputy leader, (ii) representation at the annual conference of the Party (notionally the sovereign policy making forum), (iii) representation on the National Executive Committee of the Party, (iv) participation in the National Policy Forum of the Party, and (v) participation at constituency level, including in the selection of parliamentary candidates. **It is important that in seeking to reform the funding of political parties, steps are not taken by the State inadvertently to restrain a form of political organisation in an attempt to force a form a symmetrical party organisation where none currently exists.**

7 It is important also to emphasise that the relationship between trade unions and the Labour Party is a collective or organisational one, not an individual one. It is important additionally to emphasise that each trade union has its own relationship with the Labour Party, as determined by the democratic structures of the union. Thus, some unions affiliate to the Party on the basis of all those who pay the political levy, while some affiliate less, sometimes much less. In these latter cases this may be because the union

- wishes not to affiliate full levy paying members where there is opposition the Labour Party among levy payers, or
- wants to hold back some money for independent third party or other political campaigns, or
- is unable to affiliate all levy paying members because the affiliation fee of the Party (currently £3 per member) is more than the political levy of the union.²

Is it really the business of the State to regulate such matters? It is important that in seeking to reform the funding of political parties, steps are not taken by the State inadvertently to restrain a form of active political engagement in a country of otherwise overwhelming party-political apathy.

Enforcement and Evasion

8 Quite apart from questions of party structure, there are also serious questions of practicality and enforceability that are under-estimated by the Phillips' review. It will be recalled that these problems were identified when the matter was considered by the CSPL in 1998, when it conducted a review of the practice in other countries. According to the Committee most of the countries it surveyed did not have contribution caps and of those few which did, the United States was 'a well developed system which none the less suffers from frequent incidents of evasion'. The Committee at that time did not 'wish to propose arrangements which could prove disproportionately cumbersome to enforce' (Cm 4057-1, 1998, para 6.8).

9 The CSPL in 1998 proceeded specifically to consider the proposal of the Liberal Democrats that that there should be a contribution cap of £50,000, which it rejected for the following reasons"

¹ These 'historic ties that bind the trade union movement with the Labour Party' were openly acknowledged by the Conservative Party in its evidence to the CSPL in 1997.

² A survey in 2007 found that five of the 16 unions affiliated to the Labour Party had a political levy of less than £3 annually. The lowest were £1.65 p and £1.92 p.

There would be a strong temptation to seek to evade the limit, perhaps by spreading resources amongst friends and relations or by setting up subsidiary companies in order to legitimise any donation by sub-dividing it. There would be no easy way to detect such a stratagem, nor to enforce the cap. In our view, the panoply of rules and bureaucracy which we believe would be required to enforce such a system would not be justified by the purposes of the cap (ibid, para 6.10)

Whether or not there is agreement with the underlying assumption of the last sentence in the foregoing passage, an additional question now is whether in the present fiscal climate the resources could or would be made available for the purpose of enforcement. It is unrealistic to think that this would be a priority.

10 But even if the resources were to be put into enforcement, comparative experience suggests that this is an area of law which is bound to be porous and unenforceable, and will simply encourage large donors and political parties to adapt rather than change their behaviour. For example:

- large donors typically do not make donations every year, but do so intermittently. There would be nothing to stop a political party assisting a donor with a 'donation plan' whereby the donor is encouraged to give annually; and nothing to stop an equivalent amount being given by family members of a donor.³ In this way a £50,000 annual donation becomes a £500,000 donation over five years, or a £1 million donation over 10 years;
- large donors can be encouraged to spread their money across different party causes. If there is a cap of £50,000 on donations to political parties, will there also be a donation cap on contributions to candidates? What would that cap be, and would it be in addition to any cap on contributions to a party? How many candidates would it be possible for a donor to support up to the limit on an annual basis? Does this sound familiar?

11 There is another dimension to this in terms of the relationship between political parties and third parties. Large donors who abide by the letter and spirit of any new law on political contributions may nevertheless wish to continue to engage politically and to support political causes. They will find ways of doing so in circumstances that will be known to those they wish to impress, the most obvious means being through third parties sympathetically aligned to a particular political party, thereby fuelling third party electoral activity on a scale which we have been largely spared in the United Kingdom.⁴ There is also the question of donations to think tanks that are sympathetic to political parties and operate within the sphere of influence of a political party. How do we control donations to these organisations, which may perform a surrogate role for political parties? Would contributions be capped (as expenditures are now, at least in the case of third parties if not think tanks)? If not, why not?

Conclusion

12 The contention so far is that party funding reform should reflect existing party structures: it is not the business of the State to dictate what is and what is not an acceptable form of party organisation. Party funding reform should not be a vehicle for the re-organisation of

³ Indeed what is the difference in practice between a one off donation of £500,000 and a contractual commitment to give £50,000 annually for the next ten years?

⁴ On third parties, see Political Parties, Elections and Referendums Act 2000, Part VI.

party structure, however inconvenient existing structures may be for temporal party leaderships. It is also submitted that party funding reform should be based on a sensible appraisal of what is enforceable, if the law is not to be reduced to a series of meaningless platitudes, brought into disrepute by parties and candidates advised by clever lawyers, paid to discover unanticipated loopholes tailored into any legislation. The so-called 'Ashcroft effect' created unwittingly in 2000 by inadequately considered changes to long established (albeit outdated) rules should stand as a warning to all those who would rush headstrong into further far-reaching change.

13 This is not to deny that large contributions need to be reined in. But it is to say that other ways need to be found if the objective of contributor restraint is to be met. In these difficult economic times, the key lies in 'demand-side' initiatives to reduce the parties' need for money by severely restricting the capacity to spend it. The main focus of reform should thus be on spending limits with tight controls locally and nationally. As a regulatory device, spending limits are easier to enforce than donation caps, not only because campaign spending is by design a public activity (whereas donating tends to be private), but also because campaign spending happens in defined periods rather continuously (as in the case of contributions). In an ideal world it would be possible also for the State to absorb some of the costs of parties to further reduce the demand for large donations.

14 But we do not live in an ideal world, and perhaps the most fundamental objection to contribution caps in the foreseeable future is that the shortfall in party funding that is expected to arise as a result would have to be met by the taxpayer. According to the Phillips' review, this could be as much as £25 million annually, a step that may be said pejoratively to be akin to putting the parties 'on the welfare'. With the Con Dem coalition proposing 25% cuts in public spending, swingeing attacks on social security (including responsible newspaper talk of food stamps), and the cancellation of many social programmes (such as promised school re-building), it is simply implausible to suggest that it would be acceptable for the political parties now to be seen gorging at the public trough. It would be an extraordinary, unpleasant and insensitive resurrection of the spirit of Marie Antoinette, and would rightly be seen as such.

15 In the meantime, if the three main political parties are offended by large personal donations (as they should be), they ought to be reminded that they are under no legal or other obligation to seek, solicit or accept them. They ought also to be reminded that it should not be necessary for the parties of government to require the machinery of the State to tell them how to behave appropriately in an age of austerity, or indeed at any other time.

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