



RESEARCH PAPER 00/2
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The Political Parties, Elections and Referendums Bill - Donations

Bill 34 of 1999-2000

This paper covers Parts II, IV and IX of the Bill which deal with accounting requirements on political parties, the control of donations including reporting requirements, and political donations by companies. It includes a section on overseas voters and briefly looks at proposed changes to the honours system. Party finances in general are examined along with the question of public funding of political parties.

Companion papers deal with the establishment of an Electoral Commission and the control of campaign expenditure (Research Paper 00/1 *The political Parties, Elections and Referendums Bill - Electoral Aspects*), and with provisions relating to referendums and broadcasting (Research Paper 00/3 - *The Political Parties, Elections and Referendums Bill - Referendums and Broadcasting*).

The provisions relating to the control of donations are intended to extend to the whole of the United Kingdom although there are certain exemptions for Northern Ireland.

Aileen Walker

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Summary of main points

The *Political Parties, Elections and Referendums Bill* was presented on 21 December 1999 and is due to be debated on second reading on Monday 10 January 2000. This Research Paper covers the provisions in the Bill relating to donations to political parties and party finance in general. Two companion Research Papers are also available: RP 00/1 dealing with the electoral aspects of the Bill, and RP 00/3 covering referendums and broadcasting aspects.

The manifesto on which the Government was elected in 1997 included three commitments regarding party funding:

- to oblige political parties to declare the source of all donations above a minimum figure
- to ban foreign funding of political parties
- to ask the Committee on Standards in Public Life to consider how the funding of political parties should be regulated and reformed

The Committee, under the chairmanship of Lord Neill of Bladen, reported in October 1998. The Government's subsequent White Paper included a draft Bill, which forms the basis of the provisions in the Bill.

The main provisions of the Bill relating to the control of donations are:

- the publication of details of donations to political parties of £5,000 or more at national level, and £1,000 at local level
- a ban on donations from outside the UK, from trust funds and from unknown sources
- a requirement for shareholder approval for company donations to parties
- requirements relating to party accounts and the reporting of donations
- control of donations to third parties, individual party members and member associations
- establishment of a Policy Development Fund, making grants available to political parties
- a reduction in the maximum qualifying period for overseas voters to 10 years

This paper examines the relevant provisions and also looks at related issues:

- party finance in general
- the question of public funding for political parties, including financial assistance to parties in Parliament and the new devolved bodies in Scotland, Northern Ireland and Wales
- the case for and against tax relief on donations
- the honours system

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I The Bill – Overview of the Provisions on Donations

A. Accounting requirements

Part III of the Bill deals with accounting requirements for registered parties. Its provisions require registered parties to maintain accounts of their income and expenditure and to submit an annual statement of accounts to the Electoral Commission (established by Clause 1 of the Bill - see Research Paper 00/1 for further information).

Clause 36 requires the treasurer of a registered political party to keep proper accounting records. **Clause 37** requires the treasurer to prepare an annual statement of accounts. **Clauses 38 and 39** deal with auditing requirements. **Clause 40** requires the treasurer to submit the party's accounts to the Electoral Commission and **Clause 41** specifies the Commission's duty to make the accounts available for public inspection. The criminal penalty for failure to comply with the accounting requirements is set out in **Clause 42**. **Clause 43** allows for the revision of accounts that did not comply with the requirements. **Clause 44 and Schedule 4** modify the arrangements for parties with accounting units.

B. Control of donations

Part IV of the Bill is concerned with the control of donations to registered parties. It imposes restrictions on the sources of donations so as to prohibit foreign and anonymous donations to political parties and make registered parties subject to reporting requirements in respect of donations above a certain value.

Clause 45 defines what constitutes a "donation", and **Clause 46** specifies certain payments etc which are not to be regarded as donations. **Clause 47** sets out how the value of donations in kind, such as property, services or facilities, is to be calculated.

Clauses 48 to 54 deal with restrictions on donations and give effect to the prohibition on foreign donations: **Clause 48** specifies "permissible" donors; **Clauses 49 and 50** deal with the acceptance or return of donations; **Clauses 51 to 53** cover the forfeiture of "impermissible" donations; **Clause 54** specifies offences regarding evasion of restrictions on donations.

C. Reporting requirements

Clause 55 and Schedule 5 require the treasurer of a registered party to make quarterly donation reports to the Electoral Commission. **Clause 56** requires weekly donation reports during a parliamentary election period, and **Clause 57** sets out the exemptions to that requirement. **Clause 58** makes further provision on when and how donation reports are to be submitted. **Clause 59** requires the treasurer to submit a declaration with each donation report. **Clause 60** gives the Secretary of State power to extend the requirement for weekly donation reports to periods other than general elections. **Clause 61** covers the reporting of multiple small donations. **Clause 62** requires the Electoral Commission to maintain a register of donations reported to them. Power to make special provision for Northern Ireland parties

is accorded to the Secretary of State in **Clause 63**. **Clause 64 and Schedule 6** apply the provisions on control and reporting of donations to individual party members and to members associations.

D. Donations to "third parties" and candidates

Clause 88 and Schedule 10 govern the control of donations to recognised "third parties" in terms equivalent to those relating to donations to political parties.

Clause 121 and Schedule 15 govern the control of donations to candidates in terms equivalent to those relating to donations to political parties. A new section and a new schedule are inserted into the *Representation of the People Act 1983*.

E. Company donations

Part IX of the Bill deals with political donations and expenditure by companies, making amendments to the Companies Act 1985. It introduces a requirement that shareholder consent must be obtained before a company makes a donation to a political party or incurs political expenditure. It also requires the disclosure of political expenditure in directors' annual reports to shareholders.

Clause 128 and Schedule 18 require directors to seek approval for political donations at general company meetings. **Clause 129** establishes separate disclosure regimes for donations to political parties within the UK/EU area and to parties in the rest of the world.

F. General

Part X of the Bill covers miscellaneous and general matters. It includes: a clause to reduce the qualifying period for overseas electors (from 20 to 10 years); general matters relating to the powers and functions of the Electoral Commission; the civil penalties for failure to deliver documents (**Clause 133**) and offences committed under the legislation (**Clause 134**); the Secretary of State's power to vary specified sums and make other orders and regulations; public access to the Commission's registers (**Clause 135**); definition of terms used in the Bill; and details of the Bill's extent.

The provisions of the Bill extend to the whole of the United Kingdom, although there are certain exemptions for Northern Ireland.

II Party Funding: Introduction

The manifesto on which the Government was elected in May 1997 included commitments to introduce legislation to oblige political parties to declare the source of all donations above a minimum figure and to ban foreign donations to political parties. The intention to ask the Committee on Standards in Public Life (then the "Nolan Committee", now under the chairmanship of Lord Neill of Bladen) to consider how the funding of political parties should

be regulated and reformed was also included in the manifesto. Following the report of the Neill Committee, the Government published a White Paper, which included a draft Bill.

A. Background

Financial scandals related to party funding have arisen at various times throughout the twentieth century. In the early years of the century, purchasing an honour by contributing to the government's party funds was fairly commonplace and led ultimately to the *Honours (Prevention of Abuses) Act 1925* (see Section VIII below). There has been mounting concern in recent years about some large donations to political parties, which has contributed to a sense of increasing disquiet among the public, the media and politicians about the financial affairs of parties in general. Considering that political parties are free from any restriction on donations to party funds, that there is no obligation on parties to disclose details of their finances and that there is no legal framework for regulating party finances, it is perhaps not surprising that there have been financial scandals.

The subject of party funding first came under serious discussion in recent times in the mid-1970s. In 1974 the new Labour Government was in favour of a wide discussion of the subject and in May 1975 a committee was set up under the chairmanship of Lord Houghton of Sowerby with the following terms of reference:

To consider whether, in the interests of Parliamentary democracy, provision should be made from public funds to assist political parties in carrying out their functions outside Parliament; to examine the practice of other Parliamentary democracies in this field, and to make recommendations as to the scope of political activities to which any such provision should relate and the method of its allocation.

The Committee produced its very detailed report in August 1976.¹ The findings of the Houghton report are examined below under "Public funding of political parties" (Section VI), but the very different opinions on the whole question of party funding were apparent from the first of the Houghton Committee's conclusions:

11.1 It is disappointing not to be able to present a unanimous Report, though our differences of opinion will cause no surprise. They will doubtless be reflected in the political and public debate which is likely to follow².

The Houghton Committee's second conclusion alluded to the need for speedy action, given the financial problems then facing political parties. No legislation followed the publication of the Houghton report, and the situation remains largely unchanged more than two decades later.

¹ *Financial aid to political parties* Cmnd 6601

² *ibid* p 73

Subsequent noteworthy reports on party finance include the Hansard Society Commission reports - *Paying for Politics* published in 1981 (see below) and *Agenda for Change* in 1992; the studies by Dr Michael Pinto-Duschinsky into trends in party funding³ and the 1994 Home Affairs Select Committee report⁴ (see below).

Various financial scandals and the growing dissatisfaction and cynicism among the public in the wake of “sleaze” allegations in recent years has brought the case for tighter controls on party finances into sharper focus. The main objections to the current system, where party finances are largely free from any statutory regulation, revolve around suspicions that financial considerations can buy undue influence and improper access. Both the Labour Party and the Conservative Party have accused each other at different times of being beholden to special interests. There is now a great deal of support for more openness and transparency in the system. Among the issues perceived as causing most concern are:

- large donations from individuals and companies, and, more specifically, the correlation between donations and access to Ministers, influence on policy, favourable commercial considerations, and the receipt of honours or other personal appointments;
- the absence of any obligation on parties to disclose details of donations;
- the receipt of money from anonymous or questionable sources;
- donations from foreign sources;
- fundraising “clubs”, dinners and social occasions where individuals can pay to be introduced to government ministers or prominent Opposition politicians;
- the existence of intermediary bodies such as British United Industrialists (BUI),⁵ and “blind trusts” (such as that established to fund Tony Blair’s private office as Leader of the Opposition⁶)

Journalists are quick to pick up on any hint of scandal surrounding party finances and all the main parties have suffered at their hand at different junctures. Of course, press attention in itself does not establish wrongdoing, but as one commentator has remarked:

... one of the problems associated with the current lack of disclosure in party funding is that the shadow of secrecy easily fosters an appearance of impropriety that can transform innocent transactions into sinister scandals. This increases public cynicism of the political process, deters benevolent contributors from giving and makes it harder for parties to raise the funds they need to perform their functions effectively.⁷

³ “British party funding 1913-87” *Parliamentary Affairs*, April 1989; “Trends in British political funding 1979-1983”, *Parliamentary Affairs*, Summer 1985; see also his book *British political finance 1830-1980*, 1981

⁴ Home Affairs Select Committee, *Funding of Political Parties*, 16 March 1994, HC 301 1993-94

⁵ which, now no longer exists, but which distributed funds to Conservative causes, see Keith Ewing *The Funding of Political Parties in Britain 1987*, chapter 2

⁶ see Nicholas Rufford, “Fundraiser quits over Blair’s secret cash”, *Sunday Times*, 1.12.96

⁷ Lisa Klein, “On the brink of reform: political party funding in Britain”, *Case Western Reserve Journal of International Law*, p 7

The same (American) commentator reflects on the mechanism used to examine the options for reform of party funding in the United Kingdom, noting the cross party support enjoyed by the Committee on Standards in Public Life, the respect for its individual members and its status as a standing body:

In short, the structure produced in Great Britain to deal with issues of ethics and, by extension, questions of party funding – the creation of a body with no power, but with tremendous influence – can be seen as a typically British approach.⁸

B. The Home Affairs Select Committee Report 1994

The Home Affairs Select Committee undertook an inquiry into the funding of political parties, publishing its report in 1994.⁹ A “minority report” was presented by Chris Mullin MP, the Committee divided on party lines and the Committee’s recommendations were secured by the casting vote of the Chairman. The report examined the arguments for state funding, comparing experience in other countries, but did not endorse the case for a general extension of state funding along the lines proposed either by Houghton or by the Hansard Commission. The summary of conclusions and recommendations of the Committee is produced below:

1. We believe that any British case for state funding must be made because of British circumstances, not because of practices in other countries.
2. We do not propose to endorse the case for a general extension of state funding along the lines proposed in previous reports.
3. We recommend that the Government consider the feasibility of offering each of the political parties represented in parliament one or two able civil servants on temporary attachment for an experimental period.
4. We are driven to the conclusion that [on the question of openness in party accounts] a substantial element of trust must remain vested in the integrity of both donor and recipient of party political funds.
5. We believe that every party should make published accounts available to all those who request them, if necessary on payment of a modest fee.
6. We believe that all political parties should have their accounts independently audited.
7. We accordingly conclude that trust in the integrity of the party concerned must suffice and that there is no need for precise and binding rules to be laid down for the contents of a party’s accounts.
8. We believe accounts should contain information which will allow readers to determine the cost of administration (including staff costs) of the party, and the amounts spent on fund raising, electoral campaigns, other publicity, policy development and research.
9. We believe that parties ought to reveal in their statement of income all the funds which come to them through accounts which they control [and ...] we believe

⁸ *ibid*, p 43

⁹ Home Affairs Select Committee, *Funding of Political Parties*, 16 Mar 1994, HC 301 1993-94

that income [received in the form of benefits in kind] ought also to be declared, as is obligatory for candidates at elections.

10. We do not believe that a case has been made out for requiring disclosure the identity of donors: where donations are made from identifiable and legitimate sources known to the party they should be allowed to remain private.
11. We do not believe that any limit on the amount a donor could give would be acceptable in British circumstances.
12. We believe that the public is adequately protected by the company law disclosure requirements and therefore do not propose that any parties should be obliged to declare institutional donations.
13. We consider that the practical difficulties involved in introducing new controls on company donations would be unlikely to be outweighed by any perceived benefit to shareholders or to trade union members, and we therefore do not recommend any new controls on company giving.
14. We see no reason to propose that parties should refuse foreign donations.
15. We recommend that a code of practice should be adopted by all British political parties. The code would make clear to donors that:
 - money does not buy influence or honours
 - illegally obtained money would not be acceptable, and if discovered to be so obtained would be returned
 - substantial anonymous donations would be refused
 - donations from foreign governments and rulers would be refused.The code should indicate that party accounts should itemise
 - benefits received in kind
 - income over which the party has control (such as sales and fund raising events)
 - expenditure.¹⁰

The “minority report”, on the other hand, supported disclosure of donations to parties and other political organisations, the banning of foreign donations, limits on campaign spending, shareholder approval for company donations, restriction on the award of honours and public appointments to those donating sums to political parties and the establishment of an electoral commission. The minority report also expressed the opinion that the issue of state funding was not adequately dealt with by the enquiry, “but it will have to be returned to at a later date.”¹¹

C. Committee on Standards in Public Life and the draft Bill

The terms of reference given to the Committee on Standards in Public Life at its inception in October 1994 were:

To examine current concerns about standards of conduct of all holders of public office, including arrangements relating to financial and commercial activities, and

¹⁰ *ibid*, p xxxiv - xxxvi

¹¹ *ibid*, p xxxviii

make recommendations as to any changes in present arrangements which might be required to ensure the highest standards of propriety in public life.¹²

It was outside the Committee's terms of reference to consider the issue of party funding generally, except in so far as "it would be wrong for political parties to seek or accept funds against an expectation of, or following, the award of public office, honours, contracts or improper influence".¹³ In November 1997 the Prime Minister wrote to Lord Nolan formally inviting the Committee to undertake such a study, adding to the Committee's existing terms of reference the following:

To review issues in relation to the funding of political parties, and to make recommendations as to changes in present arrangements.¹⁴

The letter also informed the Committee that the Home Office would, in parallel, be preparing legislation to introduce a system of registration of political parties,¹⁵ to ban foreign donations and to require the publication of names of donors of amounts over £5,000 – thus implementing the manifesto commitments. The Government's original intention had been to introduce legislation in the 1998-99 parliamentary session to provide for both the registration of political parties and the manifesto commitments on party funding. However, in January 1998, shortly after Lord Neill took over as chairman of the Committee on Standards in Public Life, he wrote to the Prime Minister indicating that there was likely be an overlap between the review the Committee had been asked to undertake and the Government's commitments on party funding.¹⁶ He requested that the Government consider confining the 1998-99 Bill to provisions about party registration and proceed with the funding aspects of the legislation later. Lord Neill emphasised that in its review the Committee would be examining not whether the Government's manifesto commitments should be fulfilled, but how best to do so. In response, the Home Secretary announced in January 1998¹⁷ that while the Government was still committed to its stated reforms, it had decided to defer introducing legislation on party funding until the Neill Committee had made its recommendations.

The Neill Committee issued a consultation paper¹⁸ in December 1998, studied the written submissions (some 350 of them), held hearings to question selected witnesses and undertook study tours to examine the different approaches employed in other countries. The subsequent report was published in October 1998 as the Committee's fifth report.¹⁹ The report contained one hundred recommendations dealing with the establishment of an Electoral Commission, the reporting of donations, the banning of foreign donations, shareholder approval for

¹² HC Deb 25 October 1994 Vol 248 c 757

¹³ 16 May 1995 (cited in Neill report p 15)

¹⁴ Letter from Prime Minister, 12 Nov 1997 and confirmed in HC Deb 12 Nov 1997 Vol 300 c 899

¹⁵ *Registration of Political Parties Act 1998* (chap 48)

¹⁶ 26 Jan 1998 – in HC Library, together with response, as DEP 3/5911

¹⁷ HC Deb 28 Jan 1998 Vol 305 c 275W

¹⁸ *The Funding of Political Parties: Issues and Questions*, Committee of Standards in Public Life, 1998

¹⁹ *The Funding of Political Parties in the United Kingdom*, Committee of Standards in Public Life, Cm 4057, 13 October 1998

donations by companies, financing political parties in Parliament, limits on election campaign expenditure, the conduct of referendums, media and advertising, and the honours system. With regard to the main manifesto commitments relating to the ban on foreign donations to political parties and the requirement for declaration of donations of £5,000 or more, the Neill Committee report endorsed these proposals and put forward a rigorous system of regulation, which was largely adopted by the Government. A summary of the Neill Committee recommendations relating to the subjects covered by this paper appear as Appendix 1.

The House of Commons debated the report on 9 November 1998.²⁰ The Government welcomed the report and issued a White Paper including a draft Bill in July 1999,²¹ incorporating most of the Neill Committee's recommendations. The Home Office deposited the responses to the white paper in the House of Commons Library in November 1999.²² The Neill Committee itself responded to the Government's legislative proposals on 15 October 1999.²³ Lord Neill welcomed the Government's adoption of many of the Committee's recommendations, but highlighted five areas where the Committee took a substantially different view to the Government, four of which fall within the scope of this paper:

- Tax relief - urged the Government to reconsider (did not appear in Bill)
- Permissible sources of donation - specifically (a) size forfeiture penalty and (b) effect of young people (see relevant sections below)
- Northern Ireland parties - concern about clause 63 protection (see below)
- Reporting requirements - responded to Government's invitation to comment on reporting responsibility for donations to individuals (see below)

The main changes to the provisions on the control of donations following the responses to the draft Bill are:

- controls on donations to individual party members, members associations and holders of elective office
- prior shareholder approval for company donations
- reduction in qualifying period for overseas electors from 20 years to 10 years

This paper covers the parts of the *Political Parties, Elections and Referendums Bill 1999-2000* relating to the control of donations to political parties and the new requirements concerning disclosure and accounting procedures. A section on the background to arguments for wider public funding of political parties is included. There are two main areas of the

²⁰ HC Deb 9 November 1998 Vol 319 c 47-116

²¹ *The Funding of Political Parties in the United Kingdom: the Government's proposals for legislation in response to the fifth report of the Committee on Standards in Public Life* Cm 4413, 29 July 1999 (<http://www.official-documents.co.uk/document/cm44/4413/4413.htm>)

²² Responses deposited in HC Library as DEP 99/1866, 18 November 1999

²³ this response, together with the report of the Committee and other related documents, is available on the Committee's web site – <http://www.public-standards.gov.uk/>

funding aspects of the Neill Committee report where the Committee's recommendations have not been included in the Government's current Bill:

- the introduction of a system of tax relief on donations; and
- the proposed changes to the functions of the Political Honours Scrutiny Committee

A brief examination of these issues is included at the end of this paper, as they may be relevant to the debate.

D. Sources of funding: general

The party system is very much a feature of the British political scene and it is generally accepted that a vigorous party system is essential to a healthy democracy. It is also clear that parties have to have sufficient funding to operate and fulfil their role in the system. This means that to function effectively parties need to spend money not just at election times but during the cycle of a Parliament. Funds are needed for party organisation and administration, for research and education, for publicity etc. In general terms, funding can come from one of three sources:

- parties' own fund-raising efforts, including membership fees and individual donations;
- support from other institutions (eg companies, trade unions); or
- state funding, either in addition to, or in place, of the other sources.

Political parties already receive a number of direct and indirect contributions to their finances. Among the indirect subsidies are included the facilities made available to candidates at elections (eg free postal delivery of election addresses) and the provision of free broadcasting time – the party political broadcasts. The provision of “Short” and “Cranborne” money – a direct grant from the Treasury to opposition parties in Parliament – is dealt with below (Section VI.F).

The Neill Committee report contained an excellent exposition of the three main parties' recent financial circumstances,²⁴ based on information supplied by the parties themselves. Figures are included on source of income and different categories of expenditure. Some details are also included for Plaid Cymru and the Scottish National Party. A table giving the details on party income is given in Appendix 2 to this paper.

It can be seen from the available figures that the **Conservative Party** has a higher income than the other parties, a situation which has applied throughout the twentieth century. The Neill Committee's review shows that the Conservatives have also received a substantially higher level of income through donations. Various commentators²⁵ have indicated that in recent years the Conservatives have been experiencing a decrease in the proportion of

²⁴ Cm 4057, Chapter 3 – “Income and expenditure of political parties”

²⁵ eg Robert Blackburn *The Electoral System in Britain* 1995, and work by Dr Michael Pinto-Duschinsky

funding from institutional and corporate donors. The Neill Committee reports that personal donations to the Conservative Party now account for almost 80% of its donation income.²⁶

As regards the **Labour Party**, trade unions have been the key source of funding for the Labour Party since its establishment. Funds are received from trade unions by way of affiliation fees, sponsorship of MPs, donations and forms of indirect support. However, this traditional source has been in decline and now constitutes a smaller proportion of income as opposed to individual and company donations. The Labour Party in its submission to the Neill Committee indicated that between 1992 and 1996 the proportion of the party's income coming from trade unions fell from 66 per cent to 35 per cent, rising to 40 per cent in 1997.²⁷ An extract from the Neill Committee report illustrates the current position:

In 1997 the percentage of the Labour Party's income from individual and corporate donations and membership fees was 55 per cent, double the 1992 level. According to their evidence, corporate donations amounted to less than £100,000 and so were not recorded separately. Ms Margaret McDonagh, the Deputy General Secretary, said in evidence that 40 per cent of the party's funding was made up of small donations. Some 70,000 members pay a monthly subscription, while a further 500,000 people make a donation each year. Thirty per cent of the party's income comes from the trade unions; 20 per cent from high-value donors, and 10 per cent from commercial sales and so forth.²⁸

The **Liberal Democrats and the nationalist parties** receive little institutional support and rely heavily on membership fees and individual donations:

3.11 In the six-year period from 1992 to 1997, the Labour Party received almost 300 donations of over £5,000, representing a third by value of all individual donations. Over the period 1992-97, the Conservatives received over 1,300 donations of over £5,000. By comparison the Liberal Democrats received 100, the Scottish National Party 10, and Plaid Cymru none.²⁹

III Control of Donations

A. The parties' views

The **Labour Party** submission to the Neill Committee included the following summary of proposals on control of donations:

(i) Disclosure

8.1 Political parties should be required by law to publish annually their audited revenue accounts and balance sheet.

²⁶ Cm 4057, para 3.10

²⁷ Cm 4057, Vol 2, para 6158, p 502

²⁸ Cm 4057, para 3.9

²⁹ Cm 4057, para 3.11

8.2 Political parties should be required to report the name of donors and the amount of donations in excess of £5,000 nationally and £500 locally.

(ii) Foreign donations

8.3 Political donations should not be permitted by individuals who are not ordinarily resident in this country, or who are not on the electoral register in this country.

8.4 Political donations should not be permitted by companies, unless incorporated under the laws of this country or carrying on substantial business in this country.³⁰

The **Conservative Party** has traditionally not been in favour of extending requirements for disclosure, arguing that company donations to political parties are already subject to statutory disclosure under the terms of the Companies Act 1985, and that donations from individuals are a matter of private choice. The Party's submission to the Neill Committee includes the following statements on control of donations:

We are opposed to measures which create undue obstacles to the giving of donations, but we recognise that in recent years public concern about the identity of donors to the major political parties has been heightened. That is why the Conservative Party adopted the code of practice recommended by the House of Commons Home Affairs Select Committee in 1994. We have made it clear to donors that any donation to the Conservative Party could not buy influence or honours; that illegally obtained money would not be acceptable, and if discovered to be so obtained would be returned; anonymous donations would be refused and that donations from foreign governments and rulers would not be accepted. The Conservative Party offers its donors no special say in policy making, no privileged votes in its leadership elections and no place in the governing bodies of the Party.³¹

The main points from the **Liberal Democrats'** submission to the Neill Committee are:

In summary we favour:

1. limits on national expenditure in general elections
2. limited state funding of political parties
3. an annual restriction of £50,000 on the size of any donation by an individual or organisation
4. in the case of organisations specific consent being required from the members or share holders before donations can be made
5. transparency of all donations over £1,000³²

In its report, the Neill Committee explained its philosophy on party funding in the following terms:

The most significant part of our philosophy depends on transparency. Some of our witnesses suggested this in itself would solve all the problems. While we accept transparency is of major importance, we do not believe that it is sufficient by itself.³³

³⁰ Cm 4057, App V p 227

³¹ Cm 4057, App V p 237

³² Cm 4057, App V p 244

³³ Cm 4057, para S.6, p 2

The Committee also indicated that its recommendations were to be regarded as a whole, interdependent package. Although some of the recommendations will have an adverse effect on the parties' ability to raise funds, taken together the Committee did not expect the parties to be worse off than before. The Committee's specific recommendations are dealt with in the relevant sections below, but a useful summary of the main elements of the Committee's proposals is given in the report. These relating to donations are listed below:

- Clear rules on full public disclosure of donations (including benefits in kind) to political parties – of £5,000 or more nationally and of £1,000 or more in a constituency – in any one financial year, from any one person or source
- An end to blind trusts
- Donations to political parties to be allowed only from a 'permissible source' (defined so as effectively to ban foreign donations)
- A ban on anonymous donations to political parties in excess of £50
- Shareholder consent for company donations.³⁴

B. Donations: general

1. Definition of "donation"

Part IV of the Bill deals with the control of donations to registered political parties. The Neill Committee report was quite clear that the term "donation" should be given a wide interpretation to cover not only cash donations, but also benefits in kind.³⁵

Clauses 45 to 47 of the Bill set out preliminary definitions of what does, and does not, constitute a "donation". In addition to gifts (including bequests) of money or property to a party, the following items fall within the definition:

- the payment of any subscriptions, fees, expenses or loans on behalf of the party;
- the provision of any property, services or facilities (other than on a commercial basis);
- sponsorship arrangements.

The Labour Party's submission to the Neill Committee had raised strong objections to the receipt by the Conservative Party of "soft loans"³⁶ and asked the Committee to investigate. Recommendation 6 from the Committee included a broad definition of donations to cover such arrangements and the report commented specifically:

Loans on other than arm's length open-market terms would be presumed to be in part donations, examples being interest-free loans, loans with uncommercial rates of return and loans which revert to gifts (at the time they revert).³⁷

³⁴ Cm 4057, para S.9, p 2-3

³⁵ Cm 4057, para 4.44

³⁶ Cm 4057, App V, p 235

³⁷ Cm 4057, para 4.44

The Neill Committee had the following to say about **sponsorship**:

As regards sponsorship, the Committee's view is that in many cases this should be regarded as simply a particular method of providing financial support for a political party. Sponsorship is nearly always inherently transparent, but it is important that the amount involved should be disclosed. Money provided by way of sponsorship may be seen by the sponsor as marketing expenditure. So far as concerns the political party which benefits, however, it does not differ intrinsically from a donation, in circumstances where the effect of the sponsorship is to replace (and so to release) funds which the party would otherwise have to or would like to spend. The fact that a sponsor may be seeking additionally to gain a commercial advantage for itself does not change the fundamental position. The arguments in favour of disclosure apply with equal force to both donations and sponsorship.³⁸

However, the Bill includes no specific definition of "sponsorship" and some of the party responses to the White Paper raised a query over this issue. For example, the Conservative Party expressed the view that "the dividing line between different types of sponsorship needs much greater consideration"³⁹ and in a subsequent submission asked "Would, for instance, charities be barred from exhibiting at party conference as this would count as sponsorship?"⁴⁰ Plaid Cymru's response suggests that as genuine sponsorship arrangements are the subject of some form of contract, the contract itself should be submitted to the Electoral Commission to prove the legitimacy of the sponsorship deal.⁴¹

Items **not** to be regarded as donations under the provisions of the Bill include:

- grants under the proposed Policy Development Fund (Clause 10 in the Bill, and see below under Section VI.E)
- grants to cover security costs at party conferences
- any payments from the European Parliament to MEPs
- party political broadcasts or referendum campaign broadcasts, and other candidates' facilities such as use of public rooms and distribution of election addresses
- the provision by an individual of his own services provided these are provided freely and in his own time. The *Explanatory Notes* expand on this:

It is not intended that, for example, a voluntary officer of the party should be regarded as making a donation if, in their own time, they contribute professional services (such as accountancy) within their personal sphere of expertise. However, services which were provided free of charge by an individual who was nevertheless paid by his employer while providing those services would be regarded as a donation by the employer.⁴²

³⁸ Cm 4057, para 4.45

³⁹ response to the *Funding of Political Parties in the United Kingdom White Paper* from the Conservative Party, 7 October 1999, (in HC Library as DEP 99/1866)

⁴⁰ *ibid*, Conservative Party, 15 October 1999

⁴¹ *ibid*, Plaid Cymru, 21 September 1999

⁴² *Explanatory Notes*, para 91

In addition, two further disregards are specified in the section regarding party donations:

a. *Donations to candidates' election expenses*

Donations made for the purpose of meeting a candidate's election expenses are subject to separate statutory return under the 1983 Representation of the People Act (RPA). The Bill therefore includes separate provisions for the control of donations to candidates equivalent to those specified for donations to parties. **Clause 121 and Schedule 15** amend the 1983 RPA, inserting a new Section and a new Schedule, defining donations in terms equivalent to those set out in Clauses 45 to 47 in respect of donations to registered parties, and restricting the acceptance of donations in terms equivalent to those in Clauses 48 to 54. Part III of new Schedule 2A to the RPA requires that the return as to election expenses must include a statement giving details of the source and amount of donations of £50 or more. The statement must also detail donations received, but not accepted, from impermissible or unidentifiable donors. In a system regulating donations to parties it is obviously essential to regulate donations to individual candidates too. However, this requirement will place a significant extra burden on candidates or their agents. All prospective candidates will have to be geared up to record donations received during the campaign.

b. *£200 de minimis limit*

With the exception of multiple donations, there is no requirement on parties to record donations whose value is under £200. The Neill Committee had recommended a ban on anonymous donation in excess of £50 [R8] and this figure was adopted in the draft Bill. The Government acknowledged, however, the administrative implications of this proposal and asked for views on whether a higher threshold would be justified. In response to representations by the political parties, the threshold was subsequently increased to £200 to lessen the administrative impact on parties. A party will not have to verify the source of any sum below the *de minimis* limit and will not have to record the name and address of the donor. This would therefore exclude standard membership subscriptions and small donations from having to be recorded and reported. However, whilst the £200 threshold reduces the administrative workload on parties, it opens up the prospect of evasion of the disclosure requirement by the device of multiple small donations each of which is below the *de minimis* limit. **Clause 61** accordingly places a duty on a donor who makes a number of donations to a party in a year, each of which is less than £200 but which in aggregate exceed £5,000, to report the donations to the Electoral Commission. Reports must be delivered to the Commission by the end of January following the year in which the donations were made. The donor is required to report to the Electoral Commission, rather than the registered party concerned, because the latter may not have kept records of the receipt of the individual donations and could not, therefore, verify any information provided by the donor.

2. Value of donations

The value of donations is dealt with in **Clause 47**. Gifts or property are required to be valued at their market value, that is at the price they would fetch on their sale in the open market. Where money or property is transferred to a party for a consideration less than the market value of the property, the value of the donation is the difference between the value of the money or the market value of the property and the consideration provided by the party.

Similarly, where loans, property, services and other facilities are provided on other than commercial terms, their value will be taken to be the difference between their actual cost to the party and the cost which the party would have incurred if they had been provided on commercial terms.

3. Donations to individuals

Anything given or transferred to an officer, agent or individual member of a party, unless it is solely for his own use of benefit, is regarded as having been given or transferred to the party (**Clause 45(4)**). Requirements relating to the control of donations to individuals members, members associations and holders of relevant elective offices for their own use of benefit (in connection with political activity within the party) are detailed in **Schedule 6**, provided for by **Clause 64**. The provisions are similar, but with appropriate modifications, to the controls on donations to parties set out in **Part IV, Chapters I to III** of the Bill. Donations made for private use or for purely social purposes would not be subject to control. A "members association" is defined as one which is comprised wholly or mainly of members of the party, which lie outside the formal structure of the party. This definition would include, for example, such groups as the Tribune Group or the Tory Reform Group.

"Relevant elective office" is defined as office of: Member of Parliament, Member of the European Parliament elected in the UK, member of a devolved legislature, member of a local authority (other than a parish or community council), member of the Greater London Assembly and Mayor of London or any other elected mayor within the meaning of Part II of the Local Government Act 2000. The Government asked for views in the White Paper on the Bill as to whether the responsibility for reporting donations to individuals should rest with party organisations or with individuals⁴³. The Neill Committee's response favoured the responsibility falling on the individual, and this is the approach that has been adopted.⁴⁴ The *Explanatory Notes* to the Bill highlighted the following relating to individual party members:

122. One effect of these provisions is to require that donations made to a holder of an elective office, which are disclosed in a register of members' interests, will also be subject to the reporting requirements set out in Schedule 6. This will mean some overlapping of registers of members' interests and the Electoral Commission's register of disclosable donations. But the controls on donations to MPs and others will not in any way circumscribe the ability of the House of Commons or the devolved legislatures to regulate the interests and conduct of their members.⁴⁵

4. Donations to third parties

To ensure that limits on election expenditure are not evaded by front organisations, the Neill Committee report included recommendations on "third party" expenditure. (Research Paper

⁴³ Cm 4413, para 3.39

⁴⁴ 28 Oct 1999, DEP 99/1866 and see Cm 4057 para 4.55

⁴⁵ *Explanatory Notes* p 28-9

00/1 covers the provisions relating to election expenditure). The Government also adopted this term in the Bill. It follows from the controls on third party election expenditure that third parties – which would include pressure groups, trade unions etc - should also be subject to the same rules as political parties regarding the receipt of donations. Otherwise it would be possible for the rules regarding control on donation to be evaded. The Neill Committee had recommended accordingly in Recommendation 57.

Clause 88 and Schedule 10 of the Bill apply the equivalent restrictions regarding the control of donations to political parties (contained in Part IV of the Bill) to recognised third parties. While it is clear that this potential loophole has to be addressed, it is feared that this may prove to be a difficult area to monitor.

5. Limits on donations

The consultation document asked for views on whether there should be a limit on the amount that could be donated to a political party from any one source. The Liberal Democrat Party was the only one of the three main parties that supported such a limit. It proposed an annual limit of £50,000; the Neill Committee sets out the Liberal Democrat's rationale:

The party contends that this is necessary in order to restore the public's confidence in the political process. It would make it harder for very wealthy individuals or organisations to buy into the political process, and would make it necessary for newer political parties to have more widespread support. The Liberal Democrats concede, however, that ultimately it may prove easier to introduce and enforce expenditure limits, than to seek to control every item of income.⁴⁶

The Committee summarises the views of the other main parties and sets out the arguments for and against setting a limit on donations in Chapter 7. It concludes, however, that no limit should be introduced [R32], and explains:

We believe that our proposals for disclosure of donations (in Chapter 4) and for limits on campaign expenditure (in Chapter 10), taken together, should remove the need for any cap on donations. These recommendations bring into the open and lay out for public scrutiny every donation of £5,000 and above, and should effectively contain the 'arms race' between the main parties, which has come to characterise the election scene and to impel the search for donations in recent years.⁴⁷

⁴⁶ Cm 4057, para 6.3

⁴⁷ Cm 4057, para 6.11

C. Foreign and anonymous donations

1. Foreign donations

Chapter II of Part IV of the Bill is concerned with the source of donations and contains the provisions which prohibit foreign donations. In a submission from the Home Office dated 6 March 1998, the Government had sought the Neill Committee's advice on specific topics, including the following:

How should 'foreign' funding be defined? Should personal donations be restricted to persons on the electoral register eligible to vote in the United Kingdom? How should foreign donations in relation to companies and voluntary associations be defined? How can circumvention of the ban on foreign funding be prevented?

The Neill Committee report included a lengthy chapter on the question of foreign donations, including a detailed exposition of the main arguments for and against the imposition of a ban on foreign donations. What follows is a brief summary of the points raised:⁴⁸

Arguments against a ban on foreign donations:

- The nationalist parties in Scotland, Wales and Northern Ireland traditionally rely on and value contributions from those living overseas.
- There is nothing intrinsically wrong in the practice: it is arguable that financial support from the UK to overseas political parties, particularly in emerging democracies, has assisted in the process of democratisation.
- The amounts of money involved are relatively small, so the impact of foreign donations on party finances, and therefore on policy formation, is not significant.
- There are difficulties in drafting legislation to ban foreign donations, particularly in satisfactorily defining "foreign".
- Given the other proposed restrictions on donations, and the uncertainty as to their effect on party finances, this is not a good moment at which to introduce a further restriction on fundraising (and one that will affect some parties more than others).
- There are special cases where it could be argued that residents do have a direct interest in UK political development, eg - Channel Islands, Isle of Man, dependent territories. There is also potential for future difficulties if cross-border European parties were to emerge.

Arguments in favour of a ban on foreign donations:

- UK political parties operate within the UK democratic process and should not be entitled to accept funds from individuals or organisations who do not live, work or operate in the UK.
- Disclosure is not enough: without a ban, it would be possible, and undesirable, for foreign donations to constitute a significant proportion of a party's funds.

⁴⁸ Cm 4057, Chapter 5, p 65 ff

- Drafting difficulties must be tackled; they should not stand in the way of an important principle.
- While it may be tempting to introduce an exception for special cases, it is doubtful whether a single principle could be formulated on which to base exceptions. Furthermore, any such exception could potentially open up a substantial loophole. Any issues relating to cross-border European parties can be dealt with if and when they arise.

The position of the **Labour Party** on the issue is unequivocal: the ban on foreign donations formed part of its 1997 manifesto. The **Conservative Party** has also expressed its determination not to accept foreign donations:

Foreign donations to political parties, and in particular to the Conservative Party, have been a source of controversy. Although, we have no reason to believe that any money received by the Party in the past should not have been accepted, Mr Hague has made it clear that in the future we will not accept foreign donations. No such donations have been offered or received since the General Election.⁴⁹

The **Liberal Democrats** did not seek a blanket ban on foreign donations, provided there was an overall limit on donations from individuals. All parties are united in their opposition to funding from overseas governments or governmental agencies.

The Neill Committee concluded that, despite the problems for the nationalist parties, "Political parties should in principle be banned from receiving foreign donations" [R24]. The Committee explains:

We have, therefore, concluded that, at a time when the whole question of the funding of political parties is being re-examined, it is right to take the opportunity to lay down the principle that those who live, work and carry on business in the United Kingdom should be the persons exclusively entitled to support financially the operation of the political process here.⁵⁰

In attempting to come up with an acceptable definition of a "foreign donation" the Committee ultimately approached the question from the opposite direction and proposed the concept of a "permissible source". The Government adopted the concept, and the *Explanatory Notes* to the Bill explain the objective:

The principal target is to require political parties to reject donations which are anonymous or which do not appear to be either from a person registered to vote in the United Kingdom or from a company incorporated in the European Union and

⁴⁹ Cm 4057, App V, p.238

⁵⁰ Cm 4057, para 5.16

carrying on business in the United Kingdom or from an unincorporated association having its main office and its principal sphere of operation in the United Kingdom.⁵¹

2. Blind trusts

It is the provisions relating to “permissible sources” which prohibit the use of blind trusts as a mechanism for funding political parties, as a blind trust would not qualify as a “permissible source”. The objections to blind trusts, (such as that established to fund the Leader of the Opposition’s private office before the last election) are summarised by the Neill Committee:

4.71 The evidence presented to the Committee included information about the creation, operation and closing of blind trusts that funded the private offices of the Leader of the Opposition and other members of the Opposition Front Bench during the 1992-97 Conservative Government. (As we note in paragraph 9.22 below, there seem to be earlier precedents.) The Committee understands that those blind trusts have been or are being dissolved, and that none has been created by the Conservative Party or the Liberal Democrat Party in opposition under the current government.

4.72 The dominant feature of blind trusts is that the beneficiaries purportedly do not know who contributed to them, so eliminating a possible means of buying influence. The Committee rejects the very concept of such blind trusts as being inconsistent with the principles of openness and accountability. Moreover, there must be considerable doubt whether they ensure anonymity. While we do not impugn the integrity of those who administer such funds, the cynical will always be ready to conclude that a donor can easily let it be known to the beneficiary that he or she has made a substantial contribution to the relevant blind trust. Accordingly, the Committee recommends that blind trusts should be prohibited.⁵²

3. The Bill

a. *Permissible sources*

Clause 48 provides that a party may accept a donation only from a “permissible donor” and where the identity of the donor is known. The categories of permissible donor are specified, and include:

- individuals registered in an electoral register (see Section V below for further information on overseas voters);
- a company registered in the United Kingdom and incorporated in the European Union and which carries on business in the United Kingdom (for further details on company donations see Section III.E below);
- a registered political party; a trade union; a friendly society or industrial and provident society and any other unincorporated association which is carrying on business or other activities and has its main office in the United Kingdom.

⁵¹ *Explanatory Notes*, para 20

⁵² Cm 4057, paras 4.71 & 4.72

Any payments from public funds (excluding those grants etc specified in Clause 46) are to be regarded as a donation from a permissible source. This definition would include “Short money” and “Cranborne money” (see Section VI.F below). A trustee is not to be regarded as a permissible donor.

In defining a permissible individual donor as one "registered in an electoral register" the White Paper and the Bill go further than the Neill recommendation, which proposed "registered UK voters and those entitled to register as UK voters" [R26]. The White Paper suggested a change from the Neill recommendation by providing that only people whose names actually appeared on the electoral register would be a permissible donor. The rationale was as follows:

Checking that a particular donor appears on the electoral register offers a test that is both conclusive and simple to administer. It would be far less straightforward for political parties to verify that a donor not appearing on the register was nevertheless entitled to do so. It is in the interests of the parties to have available a test which offers certainty as to the eligibility of a donor. With the introduction of rolling registration it would be open to anyone who was entitled to be registered as an elector, but was not on the register for whatever reason, to take the necessary steps at any time to secure his or her registration. Once registered, it would then be open to a political party to accept a donation from such a person. In practice, therefore, little is lost by the proposed departure from the Neill Committee's recommendation.⁵³

The Liberal Democrat response to the White Paper⁵⁴ highlighted possible "unintended consequences" of the formulation in the Bill and queried how the provision would affect young people under the age of 18, who would by implication not be able to make donations. This was also one of the concerns raised by the Neill Committee in its response to the White Paper. However, with the raising of the *de minimis* limit to £200, this concern may have been somewhat allayed.

b. “Principal donor”

A new subclause was inserted into the Bill as a counter-evasion measure. **Clause 48 (5)** provides that where a person ("the principal donor") makes a donation on behalf of two or more other persons the individual contribution of each will be treated as a separate donation for the purposes of controls on donations. The recipient party will therefore need to establish the identity of each separate donor (and to this end the principal donor will be under a duty to provide such information) and whether each constitutes a permissible source.

⁵³ Cm 4413, para 4.6

⁵⁴ response to the *Funding of Political Parties in the United Kingdom White Paper* from the Liberal Democrats, 1 September 1999, (in HC Library as DEP 99/1866)

c. Anonymous donors

Clauses 49 and 50 deal with the requirement on parties to make all reasonable efforts to establish the identity of donors. The provisions relating to anonymous donations have been tightened up since the publication of the draft Bill, and a distinction is introduced in these clauses between receipt of donations and acceptance of donations. Only after having established that a donor constitutes a permissible source, is a donation to be accepted. If it cannot be established that a donation is from a permissible source, the donation is to be returned within a period of 30 days. Where the identity of the donor cannot be established and it is impossible to return the donation to its source, the amount is to be surrendered to the Electoral Commission whence it will be paid into the Consolidated Fund. (Under **Clause 46(1)(g)**, any interest accruing to a party in respect of a donation which is subsequently returned, is not itself to be regarded as a donation.)

d. Forfeiture of impermissible donations

Should a party accept a donation from an impermissible source or where the identity of the donor is unknown, the Bill provides for the forfeiture of such donations in **Clauses 51 to 53**. The procedure would be that the Electoral Commission would apply to a court to order forfeiture. Provision for appeal is included. Any sums forfeited would go to the Consolidated Fund. Proceedings would be brought against the registered party or, if it were not a body corporate, against the party in its own name and not against individual members. These provisions should be read in conjunction with **Clause 59**, which requires the treasurer of a party to make a declaration to be submitted with donation reports to the effect that no donations have been accepted by the party from an impermissible source. The treasurer commits an offence "if he knowingly or recklessly makes a false declaration" in this respect. In addition to a party's civil liability in forfeiture cases, **Clause 54** makes it a criminal offence for anyone to participate in arrangements, supply false information, or withhold information relating to the source of donations, in an attempt to avoid the restrictions.

D. Northern Ireland

The Neill Committee, in considering the ban on foreign donations, gave special consideration to the position in Northern Ireland. It concluded that section 2(1) of the *Ireland Act 1949* and the terms of the Good Friday Agreement argued for an exception to be made to the definition of a permissible source in order to allow a citizen of the Republic of Ireland to make a donation to a Northern Ireland political party, provided that the donor complied with the Republic of Ireland's *Electoral Act 1997* [R29]. Section 2(1) of the *Ireland Act 1949* includes the following:

It is hereby declared that, notwithstanding that the Republic of Ireland is not part of His Majesty's dominions, the Republic of Ireland is not a foreign country for the purposes of any law in force in any part of the United Kingdom ...

Given the letter and spirit of both the 1949 Act and the Good Friday Agreement, the Neill Committee considered that it would be very difficult to try to ban donations from the

Republic of Ireland. A further issue was raised – the fact that some political parties have offices in both the Republic of Ireland and in Northern Ireland. There would be great practical difficulties in trying to ensure no funds were transferred between the two. The Neill Committee had also alluded to the special circumstances that apply in Northern Ireland with regard to potential discrimination or intimidation of donors⁵⁵. The Committee suggested that it might be desirable in a political context to allow a "short-term" exemption to the reporting provisions with regard to Northern Ireland [R20].

In the face of these difficult issues, the Committee concluded that a pragmatic approach was called for, and the Government accepted the Committee's recommendations in the form of an exemption order. To allow for suitable arrangements to be made, **Clause 63** in the Bill enables the Secretary of State to remove Northern Ireland parties from the scope of any or all of the provisions in Part IV of the Bill – ie the requirements relating to permissible sources and the reporting requirements. In the White Paper the Government indicated that an order would be made initially for five years, when it would be subject to review and, if necessary, renewed.

The Northern Ireland Unionist parties have expressed their dissatisfaction with this exemption, particularly as it leaves the way open for foreign funding to come indirectly through the Republic of Ireland. The Neill Committee acknowledged this potential loophole, but it was unable to devise any formula to prevent it. The response by the Ulster Unionist Party to the White Paper expresses disappointment with the exemption proposals and includes the following objections:

It is not acceptable to argue that Northern Ireland must be treated differently because Sinn Fein are organised on an all-island basis. The same law should apply to all parties which stand for election in the United Kingdom. This should not be dismissed as a political point. The fact it is difficult to police donations to the Republican Movement is no excuse for not trying.⁵⁶

The Conservative Party in its response to the White Paper posed the following questions with regard to the Northern Ireland arrangements:

Would it not be appropriate to have a statutory guarantee of anonymity for donors to parties in Northern Ireland? Could safeguards not be put in place to prevent sums of money being channelled from overseas and then donated by citizens of the Republic? Are the safeguards against intimidation in Northern Ireland sufficient?⁵⁷

The Socialist Party's response to the White Paper raised a different objection regarding the Northern Ireland exemptions. As that Party has a long-established branch in Northern

⁵⁵ Cm 4057, para 4.69

⁵⁶ response to the *Funding of Political Parties in the United Kingdom White Paper* from the Ulster Unionist Council, 13 October 1999, (in HC Library as DEP 99/1866)

⁵⁷ *ibid*, Conservative Party, 15 October 1999

Ireland, it claims that the exemptions which can be applied to "Northern Ireland parties" should also be applicable to registered parties with accounting units in Northern Ireland.

There can be no possible reason for discriminating between parties in Northern Ireland represented in the Assembly or Westminster and those not.⁵⁸

The Neill Committee's response to the Government's White Paper had also expressed concern about restricting the provisions of Clause 63 to those parties which have succeeded winning seats either in the Northern Ireland Assembly or in the Westminster Parliament.⁵⁹

E. Institutional donations: trade unions and companies

1. Trade unions

Traditionally, the principal source of funding for the Labour Party has been the trades unions. According to its memorandum of evidence to the Home Affairs Select Committee inquiry of 1993-94⁶⁰ trade unions regularly contributed between 50 and 90 per cent of Labour party finances each year, including special donations to general election campaigns.

There has been a long history of controversy about trade union funding, dating from the 1910 House of Lords judgement that collecting and administering funds for political purposes was *ultra vires* the power of trades unions.⁶¹ The *Trades Union Act 1913* then allowed unions to establish separate political funds, created from levies on members. Individual members were allowed to 'contract out'. The *Trades Disputes and Trade Union Act 1927* required all members of the union to 'contract in' to the levy and as a consequence the proportion of members contributing to political funds fell from 75 per cent in 1927 to 48 per cent in 1938. The new Labour government introduced amending legislation in 1946, restoring the contracting out system.

A new round of legislation followed in the 1980s and 1990s. The *Trade Union Act 1984* required the existence of a political fund to be confirmed by a ballot of union members at least once every ten years. The Act also broadened the definition of spending to be treated as political expenditure, so that it includes any contributions whether in cash or in kind to political parties or political activity which could influence the vote for or against a party. These provisions were consolidated in the *Trade Union and Labour Relations (Consolidation) Act 1992*, which provided clearer guidance on the process of contracting out and the conduct of the ballot. In 1996 only 44 per cent of the expenditure from all political funds went to the Labour Party in affiliation fees; the remainder was spent on political advertising or lobbying.⁶²

⁵⁸ *ibid*, The Socialist Party, 9 September 1999

⁵⁹ 28 Oct 1999 DEP 99/1866

⁶⁰ HC 301 1993-94 *Memorandum of Evidence from the Labour Party*

⁶¹ *Amalgamated Society of Railway Servants v Osborne* [1910] AC 87

⁶² Cm 4057 para 6.22

In recent years, the proportion of income to Labour from trades unions has been in decline, reflecting the fall in the level of trade union affiliations. However, several trades unions also offer guarantees; money is lodged with the Unity Trust Bank to cover a proportion of the overdraft on the developmental fundraising project and save some of the interest otherwise charged. Trade union organisers also assist with election campaigns.⁶³ It had been common for unions to sponsor individual Labour candidates, however following new rules on sponsorship introduced post Nolan, unions now sponsor constituency parties rather than candidates. According to the Neill report, local parties received an average union donation of £2,016 in 1997, an election year.⁶⁴

The Neill Committee made no recommendations for change in the regulation of trade union political activity, considering that the current legislation was working satisfactorily [R33].⁶⁵

2. Companies⁶⁶

The *Companies Act 1967* imposed a duty on companies to declare in the directors' report any political donations above a certain limit. Initially the limit was £50 but this was increased to £200 in 1980⁶⁷. There is no central record of such donations, although work is carried out by various organisations (notably the Labour Research Department and Pensions and Investment Research Consultants) to try to collate the information from individual companies' reports. Boards of Directors are not generally required to seek shareholder approval before making political donations although some do. This situation is less than satisfactory to those who would support the general principles of consultation and approval with regard to company donations, the argument being that a few individuals should not be able to make large donations of other people's money, without their consent. Given the legislation requiring trade unions to set up political funds and ballot individual members (described above), there has been deep unhappiness among Labour Party supporters that companies are not subject to similar schemes of regulation.

From the perspective of company law, companies have separate legal identities from their shareholders and their directors. Company law, and the company's memorandum and articles of association, set out the purposes for which the company is established, and the rules for how it will carry out those purposes. Some decisions within the company require the approval of the company as a whole in general meeting, but most decisions are in practice made by the directors, who have a general authority to act on the company's behalf. Directors are required to act in the interests of the company itself, so a political donation must be both in the interests of the company, and within the permitted purposes of the company. A requirement

⁶³ Cm 4057 paras 3.13 and 3.16

⁶⁴ Cm 4057 para 3.35

⁶⁵ Cm 4057 para 6.23

⁶⁶ This section has been provided by Christopher Blair, Business and Transport Section.

⁶⁷ SI 1980/1055

for political donations to be approved and disclosed allows for greater scrutiny of whether a political donation is in fact legitimate.

A limited number of corporate decisions have to be made by the company as a whole: for example decisions to alter the articles of association, to decide on the remuneration of the auditors, or to change the capital structure of the company. This Bill would increase shareholder control over a company's giving political assistance by requiring a general authority for such assistance to be approved by the company as a whole. This represents a shift of power in this sphere from the directors, although the directors would still decide whether and how to use any authorised power. A balancing act is required between the demands of corporate governance, which calls for greater oversight of corporate decisions, and the demands of corporate efficiency, which has traditionally been reflected by a reluctance of the courts to intervene in internal corporate affairs. An attempt to maintain that balance is evident in the provisions of this Bill, which requires approval only of a general authority to make political donations rather than approval of every donation. Governance is strengthened by increasing the types of disclosure which must be made and applying them to political assistance wherever given, not just in the UK (although lesser disclosures are required outside the EU). Shareholders are sometimes to have the right to pursue directors who make unauthorised donations, but within tight constraints.

Proposals to change the position regarding political donations from companies have appeared at various times over recent years. A scheme proposed by the Hansard Society in a joint report with the Constitutional Reform Centre (a cross party group including two ministers) in 1985 suggested a code of practice on company donations⁶⁸ including the following points:

- shareholders to agree political donations policy at least once during life of a Parliament and specific donations agreed in advance at AGM
- directors to prepare statement giving reasons as to why they believe political donations are in the interest of the company
- the size of any donations to be in proportion to a company's turnover and profits
- companies making political donations to so openly: ie donations to be made direct, not through intermediary bodies.

3. Previous parliamentary activity

Attempts have also been presented to parliament under previous administrations but in face of Conservative opposition have all failed. The most important legislative attempt was in the form of an amendment to the *Companies Act 1989* tabled in the House of Lords as the bill was passing through that House. The amendment passed the Lords but was rejected in the Commons.

⁶⁸ *Company Donations to Political Parties: a suggested code of practice*, Constitutional Reform Centre/Hansard Society, 1985

Other attempts have been made in the form of private members' bills, eg:

- *Political Parties (Income and Expenditure) Bill*⁶⁹ presented by Marjorie Mowlam, David Winnick and Tony Banks in 1990, which included provision for companies wishing to make political donations to be subject to similar requirements as those which applied to trade unions. A political fund would have to be established and individual shareholders could opt out. A majority of employees, as well as a majority of shareholders, would have to agree to the establishment of a political fund by means of a ballot.
- More recently, the *Companies (Political Funds) Bill*⁷⁰, a ten minute rule Bill introduced by Roger Godsiff, would have required publicly quoted companies to establish separate political funds, with the approval of shareholders, should the company wish to make political donations. Shareholders would have been able to opt out of contributions to the political fund; for other shareholders, their share of the political contribution would have been deducted from their dividend entitlement.

4. Neill proposals

The Neill Committee report included a useful summary of the current extent of institutional donations:

In the mid-1980s trade unions provided around 80 per cent of the Labour Party's £5.8 million a year income. By 1996 that proportion had fallen to 35 per cent of the Party's £21 million income,¹⁹ although in absolute terms it had risen from £4.64 million to £7.35 million. It is not so much that trade unions are giving less but that companies are now contributing more to the Labour Party than they used to do. According to the Labour Research Department (LRD) in 1995–96 the Caparo Group gave Labour £47,000, GLC Ltd gave £30,000, and Mirror Group £21,000, while the Political Animal Lobby gave £125,000. Some companies (p Pearson, Sun Life, Tate & Lyle) made donations both to Labour and the Conservatives. The LRD told us that in the mid 1980s they would expect to find some 50 per cent of Conservative Party income coming from corporate sources, whereas now the party admits the figure is down to 20 per cent.⁷¹

The **Conservative Party** maintains that the existing requirements on disclosure by companies are sufficient, as stated in its submission to the Neill Committee:

Political donations by companies and trade unions are governed by legislation. Under the Companies Act 1985, there is no obligation upon either political parties or charities to publish the names of corporate donors but the legislation requires the disclosure of donations by the companies themselves. We believe that it is right that shareholders should have the opportunity to question directors about any decision to donate money to political parties but we reject the argument that company donations should be treated in the same way as those of trade unions.

⁶⁹ Bill 98 1989-90

⁷⁰ Bill 60 1997-98; see HC Deb 30 July 1997 cc 360-61

⁷¹ Cm 4057, para 6.31

Companies are not the same as trade unions and so the relationship between shareholder and the Board is not analogous to that between a trade union and a union member. Furthermore, the scale of the relationship between the trade unions and the Labour Party is entirely different to that between business and political parties. Many people who wish to join a union have a choice of one, or at most two, from which to choose and most large unions are affiliated to the Labour Party. On the other hand, there are a very large number of quoted companies, only a few of which give money to political parties and investors are free to choose whether or not to invest in any company which donates to a political party. We believe that imposing upon business a requirement to seek the specific approval of shareholders or enabling individual shareholders to ‘contract out’ would be an unjustified and disproportionate burden.⁷²

The Neill Committee was firstly concerned to ensure that information about significant donations to political parties, whether from trade unions or companies, was publicly available and its recommendations on reporting requirements covered this. It generally accepted as adequate the existing legislative provision regarding trade union donations. It was less supportive of the current arrangements for company donations. In general, the Neill Committee recommended against placing the burden of liability on the donors, except inasmuch as they should not conspire with recipients to evade the restrictions. However, the significant exception to this was the Committee’s recommendation that shareholders should be consulted before a company made a donation:

Legislative provision should be made to require any company intending to make a donation (whether in cash or in kind, and including any sponsorship, or loans or transactions at a favourable rate) to a political party or organisation to have the prior authority of its shareholders. This authority could be in the form of a broad enabling power, valid for no longer than four years, and typically conferred by a resolution passed at an annual general meeting giving the board of directors discretion about the making of such donations up to a prescribed limit.⁷³

The Government accepted both of the main issues enshrined in the Neill recommendation. The Department of Trade and Industry consulted separately⁷⁴ on how these recommendations might be implemented and on related issues. Specifically it sought views on the following areas:

- how should a “political donation” be defined with respect to donations by companies?
- how should companies legislation be amended to give effect to the Neill Committee’s recommendation that a company should have to have the prior authority of its shareholders?

⁷² Cm 4057, App V, p 238

⁷³ Cm 4057, Recommendation 34, p 7 (and see Chapter 6 of report)

⁷⁴ *Political Donations by Companies: a consultative document* (URN 99/757), DTI, March 1999

- what changes should be made to the existing disclosure provisions relating to political donations in Schedule 7 to the Companies Act 1985?

The Neill Committee report mentioned a view, put to the committee, that dissenting shareholders ought to be entitled to some form of rebate, but the Committee did not pursue this further than obtaining confirmation that any such scheme would entail considerable administrative complications⁷⁵.

5. The Bill

The requirement on company directors to seek the approval of the company in a general meeting in advance of making any political donation is contained in **Clause 128 and Schedule 18**, which insert new sections in the *Companies Act 1985*.

Under current law, there is no general requirement for companies to obtain permission from their shareholders to donate money or assistance for political purposes, either before the donation is made or afterwards. Instead a decision to make a political donation will be taken by the directors of the company. The *Companies Act 1985* requires such donations to be disclosed in the directors' report: for each donation over £200 the name of the recipient and the amount must be shown. Although shareholders have some theoretical means of objecting to political donations by their company, in practice these means are either unwieldy or ineffective. Non-monetary assistance does not have to be disclosed.

The Bill would require that a company which wishes to make a political donation within the EU (whether in cash or in some other form) must have prior approval from its shareholders in the form of a resolution passed by the company in general meeting allowing such donations. There are also separate provisions for disclosure, for which see clause 129 below. The provisions of clause 128 will take effect in Great Britain. They will, however, be replicated in Northern Ireland by amending the *Companies (Northern Ireland) Order 1986*.⁷⁶

To require prior shareholder approval for political donations, clause 128 (through Schedule 18) inserts five new sections into the *Companies Act 1985*. Approval is required for narrowly-defined 'political donations' (using the definition of 'donation' in Part IV of this Bill), and also for 'political expenditure', which includes any spending on advertising, promotional or publicity material which is capable of being 'reasonably regarded as intended to affect public support for any EU political organisation' (Schedule 18; new section 347A, *Companies Act 1985*). This wider definition is intended to ensure that political spending, whether in cash or kind is covered. The term 'political organisation' is also defined widely, and covers both registered parties and any organisation engaged in activities of a political nature.

⁷⁵ Cm 4057, para 6.37

⁷⁶ SI 1986 No 1032

A company must have obtained an ‘approval resolution’ before it makes any type of political donation or expenditure (Schedule 18, new section 347B, *Companies Act 1985*). This means that the company’s shareholders must approve a resolution, giving authority for the company to make political donations, by at least a bare majority. A higher majority can be imposed by the directors, or by the company’s articles of association. The approval resolution may authorise either ‘political donations’ or ‘political expenditure’, or both. The resolution will set a maximum sum which may be donated or spent for political purposes. The power to donate or spend up to this limit has to be a general power: it may not purport to authorise specific uses of the power such as donations to a particular party. The approval cannot last for more than four years: this means that companies will have to obtain regular approval for political donations. In company law, it is often possible to validate actions retrospectively. It will not, however, be possible for a company to authorise political donations or expenditure retrospectively if they were made without the proper authorisation.

The Government is keen that companies should not be able to avoid the requirements for shareholder approval by channelling political assistance through corporate subsidiaries. This has required some fairly complicated provisions. For wholly-owned subsidiaries, the holding company must pass a separate ‘subsidiary approval resolution’ in respect of that subsidiary company before it may make political donations. The holding company need not seek an ‘approval resolution’ on its own account. For subsidiaries which are not wholly-owned, though, a ‘subsidiary approval resolution’ is again required, but the holding company must also pass its own ‘approval resolution’ separately (Schedule 18, new section 347C, *Companies Act 1985*).

Special requirements apply where British companies have subsidiaries which are not incorporated in Great Britain. It is intended that the requirement for a ‘subsidiary approval resolution’, with a maximum sum of approved political donations or expenditure, will also apply to non-GB subsidiaries. The requirement is, however, worded more loosely: the GB parent has to take ‘all such steps as are reasonably open to it’ to secure compliance with the GB approval regime (Schedule 18, new section 347D, *Companies Act 1985*).

If the terms of the approval regime are contravened, the directors of that company (and any ‘shadow directors’ on whose instructions the directors are accustomed to act) are liable to repay the company the contravening donation or expenditure, plus interest (at a rate prescribed in regulations by the Secretary of State), plus damages if the contravention has caused the company additional loss (Schedule 18, new section 347E, *Companies Act 1985*). Directors are liable both jointly and severally. Although directors of holding companies may be liable for contravention of the approval regime by a subsidiary company (in addition to the liability of the directors of the subsidiary), they are not always liable for contraventions by non-wholly owned subsidiaries. These civil remedies are also made available for contraventions of new section 347D, *Companies Act 1985*, which deals with a company’s responsibility for the donations and expenditure of non-GB subsidiaries of GB holding companies, through new section 347F, *Companies Act 1985*.

Directors may be exempted from liability in respect of unauthorised donations or expenditure under new section 347G. In general, it is necessary to show that the donation has been repaid,

that its repayment has been approved by the company or companies involved, and that the full facts relating to the transaction and its repayment were made known when repayment was approved. The directors of a holding company can also defend liability for contravention committed by a subsidiary if proceedings have been started against the directors of the subsidiary.

Normally it would be the company itself which pursues an action for contravention of the approval regime against the directors. However, the Bill also provides a procedure for certain groups of shareholders to initiate the enforcement procedures of new section 347E against the directors (Schedule 18, new section 347H, *Companies Act 1985*). The procedure, which is brought in the name of the company, is nevertheless quite tightly controlled. Shareholders who start such an action have no automatic right to have their costs met by the company, but they can apply to the court for an indemnity from the company for their costs (Schedule 18, new section 347I, *Companies Act 1985*). Were costs to be awarded against the company, and there was no indemnity in place, the shareholders might also be liable for the defendant's costs. Shareholders who bring enforcement action are entitled to receive relevant documentation from the company, and the courts can enforce this right (Schedule 18, new section 347J, *Companies Act 1985*).

The approval regime set up by clause 128 extends to political donations and expenditure within the UK and the EU only, even though the source of such assistance may be subsidiaries of GB companies which are incorporated anywhere in the world. In contrast, the disclosure regime of clause 129 requires disclosure (but not approval) of political donations wherever the recipient is based.

Clause 129 establishes two new disclosure regimes, for political donations and expenditure within the UK/EU area and for political contributions in the rest of the world. Whereas the approval regime introduces wholly new provisions, some disclosure requirements already exist for UK companies. The Bill extends the scope of those requirements.

Schedule 7 to the *Companies Act 1985* currently sets out matters on which directors have to make disclosure in the annual directors' report. These provisions, contained in paragraphs 3 to 5 ('political and charitable gifts'), are to be replaced by new provisions set out in clause 129. More detailed disclosure requirements apply to political donations within the EU (including the UK) than to donations made to persons outside the EU.

If a company has made political donations within the EU, or incurred political expenditure within the EU, which in total exceeds £200 in the period covered by the accounts, then the following information needs to be disclosed (clause 129). For donations to political parties or organisations, the name of the party or organisation must be given, with the total amount of the donation made to it. Where political expenditure has been incurred, the total amount of such expenditure must be disclosed. If the company is a holding company, then it must also provide information about the political donations and political expenditure of each subsidiary, against the name of the subsidiary, if such expenditure exceeds £200 (the spending of the company and its subsidiaries are taken into account for this threshold). The terms used are as defined in Part IV of this Bill. Since the current UK regime only requires disclosure of

political donations within the UK, the extension of the regime to the whole of the EU is significant. It reflects a recognition that political parties in other EU countries may have an impact on the UK's commercial climate.⁷⁷

The Government acknowledged in the White Paper that there are stronger arguments against extending the disclosure regime to cover non-EU countries.⁷⁸ It decided, however, that from the point of view of corporate governance non-EU donations are also of relevance to shareholders. The disclosure requirements for non-EU donations are less detailed than for the EU. They extend to 'contributions' to non-EU political parties, a term which includes direct gifts, subscriptions and meeting the expenses incurred by a political party (clause 129(3)). This definition of 'contribution' is more narrow than that for EU assistance, and does not include the 'political expenditure' category of assistance. A non-EU political party is one which is active wholly outside the EU. It is worth repeating that companies will not have to seek shareholder approval to make political contributions outside the EU.

A single disclosure of the amount of political contributions is required, and this must also include contributions made by subsidiaries. No threshold is imposed (unlike the £200 limit which applies to EU assistance), so presumably even very small contributions have to be disclosed. The Explanatory Notes describe the disclosure as a 'warning flag' to investors who may become concerned if substantial overseas donations are being made.⁷⁹

IV Reporting and Accounting Provisions

A. Reporting requirements

1. Background

As mentioned in the introduction to this paper, the traditional practice of secrecy surrounding the source and amount of donations received has been one of the causes for increasing disquiet about the funding of political parties. Consequently, there is now much support for the twin principles of "disclosure" and "transparency". This view was borne out by a high proportion of those who gave evidence to the Neill Committee.

In the Home Office submission to the Neill Committee dated 6 March 1998, the Government had sought the Neill Committee's advice on specific topics including:

What should be the mechanics for disclosure of donations? Should there be a separate threshold for the acceptance or rejection of anonymous donations? What should be the timing of disclosure?

⁷⁷ *The funding of political parties in the United Kingdom*, Home Office, July 1999, Cm 4413, para 5.14

⁷⁸ *ibid* para 5.15

There are already statutory requirements on trade unions and companies with regard to disclosure of information on political donations, although some would argue that the present rules do not go far enough. It is important to note, however, that until now the statutory requirements have been placed the corporate donor only; there is no requirement on a political party to divulge details of donations received. Nor is there any requirement for individual donations to be recorded at all. While the Neill Committee did not uncover any actual wrongdoing - "We have been given no evidence that lead us to doubt that nearly all give generously either because they support the general aims of the party which they finance, or in order to minimise the risk of the opposing party attaining power"⁸⁰ - it does acknowledge the potential for speculation and rumour about "improper motives" and "tacit obligations" where details of donors are unknown.

The **advantages of greater transparency** are summarised by the Neill Committee:

In summary, the advantages that can be claimed for transparency include the following:

- (1) the public and the media know who is financing each political party;
- (2) rumour and suspicion wither;
- (3) the possibility of secret influence over Ministers or policy is greatly diminished;
- (4) public confidence in the probity of the political process is raised.⁸¹

The principal **arguments against disclosure** centre around an individual's right of privacy. The Neill Committee report cites various issues in this context, (see Chapter 4 of the report for further details):

- Article 8 of the European Convention on Human Rights
- the principle of the secret ballot in the UK (dating back to the *Parliamentary and Municipal Elections Act 1872*)
- the "freedom to do good by stealth", as with charitable donations
- fears about the consequences of disclosure: eg being pestered by other causes or targeted by criminals
- an individual's standing as office holder being potentially compromised: eg trustees on public boards, civil servants, businesses dependent upon public contracts, other public positions (eg Lords Lieutenant)
- cases of potential or actual discrimination or intimidation: particularly in relation to Northern Ireland
- the unknown, but potentially detrimental, effect on parties' ability to raise sufficient funds

Most witnesses advocated the need for greater transparency and supported the case for disclosure of both the names of donors and the amounts received, although opinion differed as to the threshold above which such details should be revealed. Since 1995 the Labour Party has disclosed names of those donors who have contributed more than £5,000 per annum,

⁷⁹ *Political Parties, Elections And Referendums Bill 1999-2000*, Bill 34-EN

⁸⁰ Cm 4057, para 4.5

⁸¹ Cm 4057, para 4.15

although details of the amounts have not been published. The published accounts of the Conservative Party and the Liberal Democrats have in the past revealed a total figure for donations received, but no details as to donors or amounts. In its evidence to the Neill Committee, however, the Conservative Party supported the general principle of disclosure to the extent that with effect from July 1997 it undertook to publish with its annual accounts the names of all donors giving more than £5,000 in one financial year. The Party took the position in its oral evidence that to disclose details of amounts donated was unnecessary, and also proposed the establishment of a "Political Donations Institute" to receive anonymous donations and forward them to the designated political party.⁸² The Neill Committee was unconvinced by the argument for the latter proposal, stating that "transparency and secrecy cannot live side by side".⁸³ The Liberal Democrats supported transparency for all donations above £1,000.

The Neill Committee's conclusions, while recognising the strength of the arguments in favour of privacy, advocated a disclosure regime on the grounds that there was a public interest in knowing when a donation is made to a political party "which is significant enough to prompt questions or to raise suspicion about its purpose".⁸⁴ Obviously, opinion will differ on what constitutes a "significant" donation, but the Committee recommended disclosure of donations to national party organisations of £5,000 or more per annum from one source (as supported by the two main parties and others) [R1]. Donations to constituency associations or regional organisations from one source which total £1,000 or more per annum should also be publicly disclosed [R2].

As to where the responsibility for making the disclosure should lie, the Neill Committee felt that it was "wholly unreasonable" to place the obligation on the donor. The Committee therefore concluded that the obligation should rest with the political party's central office not only to report on donations received by the national party, but also to ensure that the party's organisational structure was adequately set up to deal with all disclosable donations received by sub-units of the party. It would be up to each party to ensure that each sub-unit supplied the required information to a designated officer at the central office. Only donations to candidates or election agents would be an individual's responsibility. However, while it might be unreasonable to require the donors to be responsible for complying with disclosure requirements, the parties have expressed concern about the extra workload that will fall on party officials. The Neill Committee acknowledged this point and made the following recommendation [R5]:

5. State funds should be made available to political parties for the purpose of meeting the start-up costs of complying with the new disclosure regulations.

⁸² Cm 4057, App V, p.240

⁸³ Cm 4057, para 4.37

⁸⁴ Cm 4057, para 4.28

Smaller parties, in particular, are worried about the implications of having to keep detailed records of central funds and of collecting and collating information from local groups. The Green Party, for example, indicated that, whereas in the past the post of treasurer in the Party had been filled by a volunteer, it would probably have to become a salaried position. The Green Party therefore felt that the proposed contribution to the start up costs of the extra financial reporting should be extended to recurring costs each year.⁸⁵ However, it is not only smaller parties that may find they are struggling to cope with the requirements. The Government indicated in its view in the White Paper:

The Government's present view is that the cost of introducing arrangements for the disclosure of donations need not be great, but they will undoubtedly place some new burdens on the political parties. The Government is ready therefore to give favourable consideration to this recommendation in the light of views and information received from the parties.⁸⁶

Clause 31 in the Bill enables the Electoral Commission to provide financial support to help existing registered parties with in meeting with initial costs. Up to £500,000 in total may be allocated either in grants or in benefits in kind (for example computer software). It is for the Commission itself to draw up and publicise the scheme it will use to apportion funds.

Experience from Scotland⁸⁷, where an election commission was set up to govern the conduct of the elections to the Scottish Parliament, reveals that while there reports were initially slow in being submitted, no significant administrative problems were encountered. Indeed, the parties were reported to have felt that the exercise had been a useful one, and generally there was support for the move away from the culture of secrecy. They did mention the increased media attention caused by the publication of donations reports and the extra time spent dealing with media enquiries.

2. The Bill

The Government agreed with the general approach of the Neill Committee and enshrined the main elements of the proposed reporting regime in **Part IV, Chapter III** of the Bill. The treasurer of a registered political party is required to make a quarterly donations report to the Electoral Commission, recording any donations of £5,000 or more (to the national party) or £1,000 or more (to local associations or regional organisations - "accounting units" of a national party). To ensure that multiple donations from the same source are properly accounted for, the party must also record any further donations of £1,000 or more from a source already recorded during the same reporting year. In order to comply with these requirements **Clause 55** places an obligation on parties to keep records of all donations received and accepted above the *de minimis* limit of £200 (specified in Clause 46(2)(b)). The

⁸⁵ response to the *Funding of Political Parties in the United Kingdom White Paper* from the Green Party, 14 October 1999, (in HC Library as DEP 99/1866)

⁸⁶ Cm 4413, para 3.21

⁸⁷ *Scottish Election Commission final report*, June 1999, para 7.15

quarterly donations report will also record any donations received from an "impermissible" or anonymous source. **Schedule 5** sets out the details that are to be included in donations reports: the identity of the donor, including name and address; the value of the donation and the circumstances under which the donation was made. The Electoral Commission is required by **Clause 62** to maintain a register of all reported donations, but, to protect the privacy and safety of individual donors, the published register will not include their home addresses.

During a parliamentary general election period, weekly donation reports are required; the details are set out in **Clause 56**. Any party not fielding candidates at a general election is exempted from the requirement to submit weekly reports (**Clause 57**). Weekly reports can also be required (with modifications) for elections to the European Parliament, the Scottish Parliament, the National Assembly for Wales and the Northern Ireland Assembly (**Clause 60**).

The Neill Committee had drawn attention to the fact that disclosure loses its effectiveness if there is delay in reporting details. The Bill stipulates that quarterly donations reports should be submitted within thirty days and weekly reports within seven days of the end of the relevant period (**Clause 58**). The treasurer is also required, under **Clause 59**, to submit a declaration with each donation report to the effect that all recorded donations are from permissible sources and that no other donations have been accepted.

B. Party accounts

1. Background

There is now general agreement that the public are entitled to have access to the annual accounts of political parties. Most parties already prepare, and many publish, annual accounts. However, there is no legal obligation on parties to publish accounts. There is at present no standard accounting practice among parties and the form of reports and detail included varies widely. Neither do parties share a common accounting year.

The Labour Party included a commitment in its 1992 manifesto to require parties to publish accounts, and the Party's submission to the Neill Committee included the following:

3.2 The Labour Party believes that there is a clear and compelling public interest in the full and frank disclosure of the financial affairs of political parties:

- political parties should be required by law to report annually their audited revenue accounts and balance sheet
- the accounts of political parties should be reported in a manner and form prescribed by law, to ensure consistency between the parties
- the accounts of the parties should be reported to an Electoral Commission ... which should have responsibility for their public disclosure.⁸⁸

⁸⁸ Cm 4057, App V, p.219

The Neill Committee proposed putting the publication of annual accounts on a statutory basis, but was concerned not to impose expensive additional administrative burdens on parties. Recommendations 3 and 4 are the relevant ones:

3. Audited annual accounts of income and expenditure of political parties should be delivered to the Election Commission within three months of each year's end.
4. The Election Commission should have power to prescribe a standard year and a standard form for such accounts.

2. The Bill

Part III of the Bill establishes the statutory scheme for the publishing of parties' annual accounts. The proposed scheme draws on provisions of the *Charities Act 1993*, which in turn are partly modelled on the *Companies Act 1985*.

Under **Clause 36** the treasurer of a registered party is required to keep proper accounting records, indicating expenditure, income, assets and liabilities. The records must be adequate to disclose "with reasonable accuracy" the financial position of the party at any time, and to prepare the annual statement of accounts. Records are to be preserved for at least six years. The Electoral Commission is given authority to specify accounting year, but this need not be the same for all parties.

The treasurer shall also prepare an annual statement of accounts (**Clause 37**). The Electoral Commission may prescribe the form and contents of statement of account in order that "best practice" is followed and individual parties' accounts can be compared. Different requirements may be imposed according to whether the gross income or total expenditure of a party falls within one of three bands: up to £1,000; between £1,000 and £25,000; and over £25,000. This is to allow a "light touch" regime for smaller parties with a small turnover.

The requirements relating to the auditing of accounts are dealt with in **Clause 38**. A party with an income or expenditure of over £250,000 must have its accounts audited within six months of the end of the financial year. If a party fails to comply, the Electoral Commission may appoint an auditor to audit the accounts and recover the costs from the party. The Electoral Commission is also given powers (in **Clause 39**) to require party officials to release any records or information required by an auditor.

The treasurer of party with income or expenditure of less than £250,000 per year should submit the statement of accounts to the Electoral Commission within three months of the end of the financial year. Where a party's accounts are required to be audited, the statement of accounts and the auditor's report are to be submitted within six months (**Clause 40**). The Electoral Commission is required by **Clause 41** to make the parties' statements of accounts available for public inspection. Details of how the reports are to be made available and a provision allowing the Commission to charge a reasonable fee for any inspection or copy supplied are included in **Clause 135**, which covers the various registers and documents lodged with the Commission.

Clauses 42 creates a criminal offence for failure to comply with the provisions in Part III. The *Explanatory Notes* explain:

The offences are intended to catch a failure to duly prepare, as well as a failure to duly deliver, a statement of accounts. *Subsections (2) and (3)* contain a "due diligence" defence.⁸⁹

Clause 43 allows for the revision of statements of account which do not comply with the regulations (based on Companies Act legislation).

V Overseas voters⁹⁰

A. Background

The registration of overseas residents as voters in UK elections is governed by two Acts, first, the *Representation of the People Act 1985* (RPA 1985) and the relevant sections of the *Representation of the People Regulations 1986* and secondly, the *Representation of the People Act 1989* (RPA 1989) with the revisions of 1986 Regulations contained in the *Representation of the People (Amendment) Regulations 1990*.

The right to vote is dependent on registration as an elector and this in turn depends on residence in a UK constituency as shown in the annual autumn canvass of householders. The problem for anyone moving abroad has always been that they could not claim that they were 'normally resident' in the UK and their right to registration in any year would thus lapse. The only categories of overseas voters were armed service voters and crown service voters who were registered as that and were permitted to vote by proxy.

It is common for other European states to give the vote to its citizens absent abroad. For a number of years there was pressure to extend the franchise to take in British citizens living and working abroad. Under the RPA 1985 British citizens resident overseas were for the first time given the right to remain on the electoral register in this country, this for a period of 5 years. The most important features of the RPA 1985 were that:

- It applied only to the narrowest category of British citizens, ie those with the right of abode here. In other words it does not include Irish citizens (who are not aliens in British law) or Commonwealth citizens (ie citizens of independent Commonwealth countries).
- It applied only to voting in parliamentary elections and to elections for the European Parliament. It did not apply to local elections. The local franchise is used for elections to the devolved assemblies.

⁸⁹ para 86, p 21

⁹⁰ This section is provided by Oonagh Gay, Parliament and Constitution Centre. More detailed note available.

- There was no provision for 'attainers' (ie young people who become 18 during the life of a register) to be included in the register, if they become 18 while resident abroad
- The method of application was along the same lines as that for service voters. Overseas residents must make an "overseas elector's declaration" to the electoral registration officer of the constituency in which he or she was last registered
- Overseas electors can only vote by proxy as ballot papers cannot be sent out of the country

B. *Representation of the People Act 1989*

The arrangements introduced by the RPA 1985 perhaps inevitably did throw up some minor practical difficulties and resentments. In particular two issues attracted some attention, the exclusion of attainers and the restriction of the extension period to 5 years. On both of these the Government had originally intended to be less restrictive and the Bill when it first came before Parliament in the 1984-85 session did provide for the inclusion of attainers and for a 7-year extension. Political difficulties during the passage of the Bill necessitated a compromise with the Opposition. As a result the 7-year period was reduced to 5 and attainers were excluded. On the length of the period the Government had always made it clear that it was regarded as experimental - a cautious initial step - and an undertaking was given in 1985 that the matter would be kept under review.

In fact the level of overseas registration under the 1985 Act was far lower than expected despite all the overseas publicity. Of the (very rough) estimate of 500,000 persons eligible, only 11,100 were registered in the 1987 register. Since then numbers dropped year by year to a mere 1,237 in 1990. Some of the apparent lack of enthusiasm for the new scheme was attributable to its practical complications including the need for the elector to take all the positive steps without reminder, but some also to what was seen as a rather arbitrary cut off at 5 years when, for instance, overseas tours of duty may often be longer than that. The Conservative manifesto for the 1987 election promised to extend the eligibility, but was not specific about a new time limit.⁹¹

A period of consultation of all interested bodies, political parties and so on, followed with a consultation paper issued in April 1998.⁹² This referred to a new time limit of between 7 and 20 years, or even an unlimited qualification. In session 1988-89 a further Bill was introduced to extend and simplify the scheme. Some of the qualifying aspects, such as requiring attestation by a consular official, were removed. The Bill as introduced proposed a 25 year period, but this was reduced to 20 years following amendments introduced by the Opposition spokesperson Alastair Darling which were accepted by the Government. The Opposition had

⁹¹ *The Next Steps Forward* 1987

⁹² Dep NS 3902 see HC Deb 29 April 1988 c 285-6W

varying viewpoints, with other amendments proposing a reduction to ten years.⁹³ The reduction was opposed by Robert Maclennan for the Liberal Democrats.⁹⁴

In very many respects the provisions introduced in 1985 stand as they were. In particular it must be noted that there is no change at all in the elections to which they apply, ie, parliamentary and European only, or in fundamental requirements such as that overseas electors must be British citizens and can only vote by proxy. The main changes under the 1989 Act were:

- The period for which overseas residents can remain on the register was extended from 5 to 20 years.
- Attainers are included on the register and will therefore be able to vote abroad. They are registered in the constituency in which their parents or guardian were last registered.
- The requirement for a solemn declaration of intention not to reside permanently outside the UK was dropped.
- EROs were to send annual reminders to overseas voters in the same way as voters resident here are reminded by receipt of the annual canvass form.

Attestation requirements were eased in that the first application no longer requires attestation by a consular official but by a 'supporter', ie anyone aged 18 or over who is a British citizen with a passport, who is not living in the UK and who knows the applicant but is not a close relative.

C. Overseas voters and party funding

The Neill Committee report on the Funding of Political Parties recommended that registered voters in the UK and people who are eligible to be put on the electoral register in the UK should be able to give donations to political parties in the UK (para 5.20). Foreign donations would no longer be permissible sources of funding for political parties.

The report did not comment on the rules for overseas voters, but accepted those as set out in the RPA 1989. It stated "we think that a donation could be properly received from a person who was eligible to be put on the electoral register because such a person already has, under existing legislation, the right to participate in the electoral process subject to the additional step of securing registration" (para 5.21).

Part IV of the *Political Parties, Elections and Referendums Bill 1999-2000* defines "permissible source" in such a way as to exclude foreign funding. As far as individual donors are concerned, the Neill Committee recommended that those entitled to register as UK voters should be "permissible donors". However, Clause 48(2)(a) of the Bill provides that a

⁹³ Jeremy Corbyn, David Winnick

⁹⁴ HC Deb 5 July 1989 vol 156 c 417

permissible donor is "an individual registered in an electoral register" (see Section III.B above).

The White Paper did not raise the issue of restricting the franchise of overseas voters by reducing the number of years in which they could register whilst being absent from the UK. However a report from the Home Affairs Select Committee *Electoral Law and Administration*, published in October 1998,⁹⁵ did recommend a return to the five years' absence rule:

116. On balance, we take the view that the twenty year maximum period within which a British citizen overseas may retain the right to vote is excessive and that the earlier limit—five years—should be restored.

The Committee had a Labour chairman, but the recommendation was not opposed by Members from other political parties.⁹⁶ During the debate on second reading of the *Representation of the People Bill 1999-2000* John Greenway, for the Conservatives, stated that the three Conservative members of the committee had agreed in a spirit of unanimity, but this did not bind the rest of the Conservatives.⁹⁷

Chris Mullin, then Chairman of the Home Affairs Select Committee raised the issue in response to the Home Secretary, Jack Straw's, statement on the draft Bill on 27 July 1999.⁹⁸ Mr Straw responded as follows (c140):

On overseas electors for the British Parliament, it is unarguable that if people are on the electoral register to vote in this country, they should be entitled to make donations to the political party of their choice. There is a separate question about whether the rules laid down in the mid-'80s--which allowed people with a rather distant connection with this country to vote, such as those who have not been resident here for 20 years--should continue. The Select Committee on Home Affairs has proposed that the period be reduced to five years, and we are considering that carefully.

On 26 November Jack Straw commented during the Today radio programme that the Government were considering amendments to Home Office bills to reduce the qualifying period for overseas voters to five years. However, Jack Straw indicated on second reading of the *Representation of the People Bill* that the forthcoming political parties, elections and referendums bill might be a more appropriate vehicle for amendments on the overseas franchise. He went on: "I hope that discussions can be held between the parties to determine whether there is a consensus for change".⁹⁹ He did not promise that any change would occur only after a consensus has been found.

⁹⁵ HC 768 1997-8

⁹⁶ *Minutes of Proceedings* HC 768 1997-8

⁹⁷ HC Deb 30 November 1999 c 181

⁹⁸ HC Deb 27 July 1999 vol 336 c 139

⁹⁹ HC Deb 30 November 1999 c 170

A Labour member of the Home Affairs Select Committee, Martin Linton, argued at second reading of the *Representation of the People Bill* that those that were not eligible to pay tax in the UK should not have the franchise.¹⁰⁰ In its response to the *Funding of Political Parties White Paper*, the Liberal Democrats proposed reducing the 20 year period to 7, allowing overseas voters to vote in at least one general election after leaving the UK. A series of amendments on the qualifying period for overseas electors has already been tabled to the *Representation of the People Bill* and may be debated during the forthcoming committee stage.

Clause 130 of the *Political Parties, Elections and Referendums Bill* specifies a reduction of the qualifying period for overseas electors from 20 to 10 years. A Home Office press release¹⁰¹ indicated that this change would not be introduced until rolling electoral registers (provided by the current *Representation of the People Bill*) are in place. The change will not therefore take place until after the next general election.

If amendments are made it will restrict the parliamentary franchise for the first time since the *Representation of the People Act 1948* abolished the university constituencies and the business vote.¹⁰² Nigel Evans, for the Conservatives, said:

The reduction of the 20-year period during which people resident overseas can vote in the UK could be called the Ashcroft amendment. Let us be adult about the matter. It has been mentioned in whispers from the Government Benches, but it is important. I remember that during the last general election campaign, the hon. Member for Hampstead and Highgate (Ms Jackson) paraded herself round the beaches of Spain, trying to get people to vote for the Labour party. No doubt we, too, had hon. Members trying to encourage overseas voters to vote for us. We should not penalise the 3 million people who can vote as overseas electors simply because the Government have a vendetta against one person.¹⁰³

The table at Appendix 3 gives details of the overseas vote since 1987.

The constituencies with the highest number of overseas voters are Kensington and Chelsea (137), Hammersmith & Fulham (115), Richmond Park (114), Cities of Westminster and London (108) and Hampstead and Highgate (106). No other constituencies had over 100 overseas electors in 1999.¹⁰⁴

¹⁰⁰ HC Deb 30 November 1999 c 211

¹⁰¹ *Party Funding Bill: making politics more accountable*, Home Office News Release 443/99, 21 Dec 1999

¹⁰² for background see *The Electoral System in Britain 1995* by Robert Blackburn p 70-71

¹⁰³ c 240

¹⁰⁴ *Electoral Statistics 1999*

VI Public funding of political parties

While the current Bill does not extend public funding of political parties, this subject is often raised in conjunction with discussions on the financing of parties and elections generally, and a description of the main issues may be helpful. Details of the Neill Committee's consideration of this issue are included below.

The question of wider state funding for political parties has gathered momentum since the early 1970s, largely as a reflection of the financial difficulties parties continue to experience, (formerly, largely a Labour Party problem but more recently experienced also by the Conservative Party). At least one commentator¹⁰⁵ has traced the beginning of the current debate back to a speech by Dick Leonard, then Labour MP for Romford, to a Fabian Society meeting in January 1973. Seidl reports that Leonard spoke of the decline in Labour Party membership and added that this was paralleled in many other democratic parties. At the same time he pointed out that politics was becoming ever more expensive. It was unrealistic, he thought, "to expect individual political activists, who already carry a disproportionate burden of work, also to find the cash." Following representations by Leonard, the NEC urged in February 1973 that the Speaker's Conference which was about to be set up should include state funding in its terms of reference. Although this was supported by the Liberal Party it was blocked by the Conservatives and never reached the agenda. Mr Leonard tried, however, to keep the question of state funding on the political and parliamentary agendas.

A. The Houghton report

In May 1975 the Labour Government set up a committee under the chairmanship of Lord Houghton of Sowerby to consider the question of financial aid to political parties, and specifically whether "in the interests of parliamentary democracy, provision should be made from public funds to assist political parties in carrying out their functions outside Parliament ...".¹⁰⁶ The Committee reported in August 1976¹⁰⁷ and, although now over twenty years old, the report is still regarded as a prime reference on the subject of public funding for political parties. Then, as now, the case for state financing was hotly contested and while the Committee's report did recommend a system of state financial aid for political parties, four members of the committee did not consider that the case had been made and expressed dissent in a minority report.

The Houghton Committee's consideration of the case for state aid was set against what it saw as a changing background for parties. It identified an "enormous expansion in the functions of government" and a different position for the UK in terms of its economic position and its international relationships. The Committee took the view that while the "bureaucracy and powers of the state" had been greatly expanded to carry out its greatly enlarged

¹⁰⁵ Seidle, "State aid for political parties", *Parliamentarian*, 1980

¹⁰⁶ HC Deb 8 May 1975

¹⁰⁷ *Report of the Committee on financial aid to political parties* Cmnd 6601

responsibilities, political parties have lagged behind. The Committee's research and the evidence it received led it to make the following observations:

party organisation is in a number of cases weak at national level, and at local level generally exists on a pitifully inadequate scale of accommodation, equipment, trained staff and resources. Membership fees are low, fundraising takes up too much time; organisation is frequently inadequate; and the level of political activity is far below what is needed to gain the attention and interest of the general body of the electorate, especially the young. Our considered view is that British political parties frequently operate below the minimum level of efficiency and activity required.¹⁰⁸

The Committee did not believe that there was much scope for increasing membership fees, or for expansion of traditional constituency fund-raising activities; nor was it convinced that additional support from the institutional sources would be likely. In relation to institutional sources of funding the Committee stated:

But even if sufficient funds were forthcoming from these sources we would nevertheless see this further dependence on institutional support as an undesirable development. Whilst we received no evidence to suggest that institutional supporters make their support conditional upon the right to influence party policies, we feel that the standing of the Labour and Conservative parties with the general public might well be seriously impaired if they were seen to depend for their continued existence on ever increasing amounts of institutional support.¹⁰⁹

These conclusions led the majority of the Committee to make the following suggestion:

Under these circumstances we consider that a modest injection of state aid is best, and perhaps the only, way of arresting the run-down of the parties, and of starting the process by which their effectiveness can be raised to an adequate level. Such a boost would enable the parties to extend their activities. Moreover, the higher efficiency attained would, we believe, itself generate more support and increase their capacity to raise more money themselves.¹¹⁰

It went on to recommend that the total amount of state aid should be no more than about 20% of the present combined central and constituency incomes of the parties and that this help should be given to parties at both central and local levels. The first part of the scheme was to consist of annual grants to be paid from the Exchequer to the central organisations of the parties. In order to be eligible for a grant, parties would have to be able to demonstrate a "reasonable minimum of electoral support".¹¹¹ This may go some way to answer some of the fears expressed about state aid being made available to extremist parties or to parties whose aims are to overthrow democratic government by violent means. It might also help overcome

¹⁰⁸ *ibid*, para 9.8

¹⁰⁹ *ibid*, para 9.15

¹¹⁰ *ibid*, para 9.17

¹¹¹ *ibid*, para 10.19

the difficulty that there is at present no definition of a political party and so electoral support would help to identify who should receive state aid. The Houghton Committee placed a condition on state aid that recipient parties should produce professionally audited accounts and should ensure that the form and content of the accounts give a correct and informative view of the party's finances. The second part of the scheme was for some financial assistance at constituency level through the partial reimbursement of candidates' election expenses, both at parliamentary and local government elections. This was designed to help "offset some of the additional power at the centre that might otherwise arise from the introduction of state aid".

The Committee was not however unanimous in its views and a minority report was delivered by four of its members. While agreeing with the majority that the recommended schemes represent 'by far the best and fairest means by which taxpayers' money could be deployed, either directly to political parties or indirectly through the electoral system'¹¹² they dissented from the majority's conception of the nature and role of political parties. In the main they saw parties as only 'one among the several pillars which support our parliamentary democracy'¹¹³ and took the view that 'it is the commitment of the British electorate to parliamentary democracy, and its willingness to work it, which ultimately sustains the system; the parties are part of the expression of that commitment and that willingness'¹¹⁴. It saw the injection of state aid as a threat to our essentially voluntary system of party politics and that it could be justified only if parliamentary democracy was in danger because of the imminent bankruptcy of the major political parties. The minority report set out general arguments against state aid, which can be summarised as follows:

- Direct state aid would breach the established British constitutional practice that party organisation is a strictly voluntary activity. Voting is not compulsory and it might antagonise taxpayers to compel them to finance parties, particularly those with which they have no sympathy.
- There can be no guarantee that state funding would of itself "improve" the performance of parties.
- State aid would tend to weaken the links between political parties and their traditional sources of support (although this argument is also used to support the case for state aid)
- The injection of state funds may lead to direct demands on party organisations for a *quid pro quo* in the form of radical changes in their rules and practices.
- Direct subsidies to parties' national headquarters would greatly strengthen the central organisations at the expense of the rank and file in the constituencies.
- The sight of MPs voting substantial sums of public money to their parties would deepen the public's cynicism about politics and politicians.

¹¹² *ibid*, para 3

¹¹³ *ibid*

¹¹⁴ *ibid*

On the whole the majority recommendations of the Houghton Committee were not well received. The press appeared to favour the minority report and the Conservative Party was now clearly opposed to state aid. The Liberals gave it equivocal support and the Labour Party was not itself wholly behind the recommendations. It seems to have been the whole principle of state aid that was subject to criticism rather than the particular scheme put forward by the Houghton Committee. The Labour Party did however look again at the issue in 1980 when its Commission of Enquiry was set up 'to examine the finances, organisation and political education of the party'. In the view of the Commission state aid is essential for the "continued functioning of our political parties and therefore for the health of our democratic system". It pointed out that lack of finance by the party has meant that it has been unable to employ sufficient agents and its organisation has not had the resources to operate as effectively as it would like. Since then, up to and including 1992, Labour election manifestos have given an undertaking to introduce state aid along Houghton lines.

B. The Hansard Society Commission report

In July 1981 the Hansard Society Commission published its report on the financing of political parties *Paying for Politics*. It adopted a radically different perspective from Houghton but it too recommended state aid, albeit in a different form. Surveying the largely hostile reaction to the Houghton report the Commission contrasted its own approach to that of Houghton. It looked at the needs of the electorate rather than the needs of parties:

A new approach: the public interest

1.15 We believe that the issue of the financing of the political parties is an immensely important one from the point of view of the effective working of our political system. Unless the parties have enough money to carry out their activities, democracy cannot function efficiently nor can democracy work fairly if the sources of party finance lead to the over-representation of some interests and the under-representation of others.

The Houghton Committee was set up partly because it was believed that the impact on of inflation and the cost of the two general elections of 1974 had left the parties so short of funds that they were near financial breakdown. These fears conditioned its approach. For the Committee based much of the argument for state aid on its belief that the parties both wanted and needed extra funds.

Our own approach has been very different. For we have tried to consider the issue of the financing of politics in terms of the wider criterion of the needs of the electorate rather than of the parties. We have sought to discover whether the present arrangements for the financing of political parties are or are not in the public interest. But this means that we must first try to give some meaning to the notion of the public interest.¹¹⁵

The Commission looked in detail at the dependence of the three main parties on institutional sources, which they clearly identified as the main problem. Although they found no evidence

¹¹⁵ *Paying for politics*, Hansard Society Commission, 1981, p 12

that business and industry or trade unions had succeeded in exerting illegitimate pressures on parties it did not believe that such heavy dependence on one particular source of finance was in the public interest. In particular the Commission concluded that these financial relationships accentuate, rather than reflect, the actual degree of conflict in society and that there is some danger that the structure of financing of parties in Britain entrenches class conflict.¹¹⁶ The Commission related this view back to the functions it identified as being the purpose of political parties (see above) and concluded that the financial relationship between the two main parties and business and the trade unions:

- distorts electoral choice by stressing a class polarisation which may well not be desired by the voters;
- offers great privileges to certain interests in the representative process, while allowing other interests - perhaps equally important - to be 'organised out' of the political system;
- gives certain interests excessive weight in the policy-making process, and in the selection of candidates;
- militates against popular participation in politics;
- handicaps parties, such as the Liberals or the SNP, which cannot command institutional finances;
- results in some members of trade unions and requires some shareholders of companies to contribute to causes they do not approve of, and which, indeed, they actively oppose.¹¹⁷

Two members of the Commission were against state aid on the familiar grounds that it would positively discourage individual voluntary effort and contributions. They agreed however to discuss how state aid might best be introduced and with the other members of the Commission they considered that any system of state aid should include the involvement of voluntary party workers. One of the members of the Commission was Dick Leonard, who appeared to start the whole debate back in 1974, and he was the only member to believe that unconditional state aid would be perfectly acceptable. The other members disagreed on the grounds that parties should not be discouraged from raising more income by voluntary means or rationalising expenditure. Like the Houghton Committee they subscribed to the argument that it would increase public cynicism about politics and rejected the argument that the amount paid by an individual taxpayer could be seen as supporting the party system as a whole. It was felt that individual taxpayers would be more likely to see their money going to particular parties rather than the democratic institution of the party system. The Commission also concluded that unconditional state aid would do nothing to encourage political participation.

The Commission recommended, therefore, state aid dependent upon the degree of popular support for a party. It proposed that for every £2 contributed to a duly qualified party, a matching payment of £2 be made to the party by the state, subject to an overall annual maximum of £5m for the whole scheme. The maximum for each party would be calculated so

¹¹⁶ *ibid*, para 3.61

¹¹⁷ *ibid*, para 4.1

that in order to achieve its maximum a party would have to secure contributions from nearly 1 in 12 of those who had voted for it in the previous election. In order to qualify for aid parties would have to satisfy the same criteria put forward by Houghton for its unconditional scheme - namely, a party must at the previous general election have either

- secured 12½% of the vote in at least six constituencies; or
- had two candidates returned as Members; or
- had one candidate returned as a Member, and received as a party a total of not less than 150,000 votes.

The Commission identified the main advantage of its scheme as encouraging parties to broaden their appeal and seek new members. It would encourage fund-raising and not detract from the voluntary nature of the British political system. The encouragement of a large number of small donations was seen to have two beneficial effects - one, weakening the reliance on institutional support which gives only a small number of large donations and two, expanding constituency activities and loosening the grip of small numbers of activists at local level. The Commission saw the scheme as operating to give benefits to parties both at national and local level; it envisaged the constituency parties keeping the donations and national headquarters receiving the matching payments.

On the whole the Hansard Society Commission's report was rather more favourably received than the Houghton Committee's report although it is not clear whether this is attributable to the fact that all the parties have experienced a steadily worsening financial position.

C. The parties' views

Until 1992 the **Labour Party** had consistently supported the general finding of the Houghton report in favour of state funding of political parties and committed itself to such in successive manifestos up to and including 1992. In the third report of the Labour Party's Working Party on Electoral Systems,¹¹⁸ Labour reaffirmed its support for a system of state aid as set out in a statement contained in its 1989 policy document *Meet the challenge, make the change*:

Democracy also requires efficient, effective and well funded political parties at both national and local level. We will introduce a system of state financial aid for political parties as recommended by the Houghton Committee. The funding will take the form of annual grants from the Exchequer to national parties, based on the level of electoral support, and limited reimbursement of expenses incurred at local level. We will also impose limits in national spending by political parties comparable to limits at constituency level.¹¹⁹

Its evidence to the Home Affairs Select Committee inquiry in 1993 (see Section II.B above) also supported a system of state funding. The 1997 Labour Party manifesto did not explicitly

¹¹⁸ *Report of the Working Party on Electoral Systems*, Labour Party, 1993, p 46-47

¹¹⁹ *Meet the challenge, make the change*, Labour Party, 1989

mention state funding, although it included the commitment to ask the Committee on Standards in Public Life “to consider how the funding of political parties should be regulated and reformed”. In its submission to the Neill Committee the Party no longer advocated an annual subvention to political parties, but proposed

- the continuation of the existing forms of indirect support to candidates at election times
- a new funding formula extending support for opposition parties in parliament (see below)
- public funding for political education and training, to be administered by the Election Commission (covered by **Clause 11** in the Bill)

Conservative Governments have traditionally been hostile to proposals for state funding of political parties. The Party’s 1997 manifesto did not mention party funding directly, but its most recent Campaign Guide makes clear that it opposes any move to state funding on the grounds that:

- It would undermine the voluntary principle of British party politics
- It would be wrong to impose yet another burden on the taxpayers to subsidise politicians at a time of public spending constraint
- There is no consensus on what would be regarded as ‘fair’ financial support. Should it be designed to reflect past electoral performance – with its bias towards established parties? Or should it be based on the number of prospective Parliamentary candidates fielded by a party – which could give encouragement to extremist political parties?; and
- It would give a party with a Parliamentary majority control of the funding of political parties, bringing the danger of self-serving legislation.¹²⁰

In their submission to the Neill Committee the **Liberal Democrats** favoured limited (but fairly substantial) state funding of political parties, based on the principle that people should not be able effectively to buy an election and that political parties are limited in their ability to put their case to the electorate without the provision of funding from the state.

There should, therefore, be a common amount paid to UK parties which achieve a threshold level of support in a general election (say 5% as the accepted deposit level in a parliamentary election) with a proportionate amount available to parties who achieve this threshold in either Scotland, Wales or Northern Ireland.¹²¹

By linking the public funds to general election results, the intention is to ensure that smaller parties, like the Green Party, could qualify, but extremist organisations would not. A suggested “core” of £2m per annum for each qualifying party was proposed with a further 10m distributed each year in proportion to the number of votes cast.

The Neill Committee summarised the views of the other parties on public funding:

¹²⁰ *The Campaign Guide 1997*, Conservative and Unionist Central Office, p 518

¹²¹ Cm 4057, App V, p 247

7.12 Plaid Cymru favoured some state aid by way of tax credits, along with an increase in the provision of money paid to opposition parties in Parliament under the Short money scheme.⁹ The Scottish National Party, not unlike the Conservative Party, stressed the importance of funding as a participative activity, to be undertaken by the membership, but conceded that there was a case for extending Short money to the Scottish Parliament and for research institutes undertaking activities like those of the Stiftungen in Germany.

7.13 Of the political parties in Northern Ireland, the Social Democratic and Labour Party strongly supported state funding; they urged an extension of state funding for the party's work in political education and research and policy development. The Ulster Unionist Council was, in principle, against state funding on the ground that a party, if popular, should be able to attract funding. However, it conceded that some sort of funding would be appropriate in the context of the establishment of the Northern Ireland Assembly. The UK Unionist Party, although in its original submission against state funding, when giving evidence favoured some state funding of opposition parties to finance research and policy development. Lord Alderdice, of the Alliance Party, argued in favour of more state funding in support of the parliamentary functions of a political party rather than funding the political party itself.¹²²

D. The Committee on Standards in Public Life report

In its consideration of the case for public funding of political parties, the Neill Committee made an initial distinction between those activities undertaken by parties outside parliament and those undertaken within. This section will examine the former only; the funding of opposition parties in parliament is covered in Section VI.F below.

The Committee considered the funding of parties' activities outside parliament in Chapter 7 of its report. It recommended that those indirect benefits already received by parties in elections should continue and be extended to cover other elections [R35]:

35. The provision of free postage (for Parliamentary and European elections) and free rooms (for Parliamentary, European and local elections) should be continued and extended to elections to the Scottish Parliament, to the National Assembly for Wales and to the Northern Ireland Assembly.

The Committee considered the **arguments in favour of increased public funding** to be:

- parties would no longer be reliant upon large donors and would therefore be immune from outside (potentially improper) influence
- parties would be able to fulfil their essential functions in the democratic system more fully and effectively

¹²² Cm 4057, p 90

- using systems of "matching funding", state aid can actually be used as a way of increasing the involvement of private individuals¹²³

The arguments against increased public funding:

- taxpayers should not be compelled to support parties, with whose views they may not agree
- it increases the danger of the party system "ossifying"
- parties might be tempted to decrease fundraising efforts at the grassroots level and thereby decrease the amount of "civic engagement" in the political process
- parties might lose some independence and become, in effect, part of the state
- the belief that the public would not be in favour
- the needs of political parties are not the highest priority in terms of public expenditure (a view expressed by the Labour Party in its submission to the Neill Committee)¹²⁴

The Committee concluded that the arguments were finely balanced, and whereas the case for increased public funding might become imperative at some point in the future, that time had not yet come. It continued:

We believe that our proposals for increased disclosure, set out in Chapter 4, will go a long way to alleviate the public's doubts and suspicions about the sources of party funding. We do not consider that they are likely to reduce the level of donations significantly, while our proposals for limiting the parties' campaign spending, set out in Chapter 10, will curb the parties' need for ever-increasing financial resources. As to the suggestion that the parties are, in some general sense, under-funded, we find that suggestion somewhat implausible in view of the scale of the parties' spending at the 1997 general election. The truly poor cannot afford to put up so many billboards.¹²⁵

Accordingly the Committee recommended against a new system "whereby the state is obliged for the indefinite future to provide financial support for the political parties" [R36].

E. Policy Development Fund

While the Neill Committee report recommended against the introduction of a new system of increased public funding for political parties, it did recognise that a problem existed and that parties were driven to concentrate their resources on campaigning and routine administration at the expense of long-term policy development:

Perhaps surprisingly, this applies almost as much to the governing party as to the opposition. Ministers become preoccupied with current crises and the sheer volume of government business. They, and the party to which they belong, find it hard to

¹²³ Cm 4057, paras 7.16-7.18

¹²⁴ Cm 4057, paras 7.19-7.23

¹²⁵ Cm 4057, para 7.24

‘think long’. The opposition parties, for their part, are also in continuous danger of being deflected from one of their principal tasks, which is to prepare for government in policy terms. The political parties themselves should be one of the major sources of ideas in British politics. They are not always so at present.¹²⁶

Consequently, it proposed the establishment of a “modest” Policy Development Fund to enable the parties represented in the House of Commons to fulfil better “what is, after all, one of their most vital functions” [R37]. A limit of £2 million per annum was proposed, which could in future be up-rated in line with inflation. This sum was based on the Committee’s estimate that in 1997 the three main parties spent less than £1.5 million on research. The political parties would be required not only to account in the normal way for their expenditures from the fund but also to certify that the money had not been spent on such objects as routine party administration, electioneering and opinion polling. The fund should be administered by a politically neutral body, or “failing that” by the Electoral Commission. (The Committee did not favour the latter option, because the fund would not be intended for electoral purposes).

The Government supported the establishment of a Policy Development Fund along the lines proposed by the Neill Committee, and with the £2 million per annum limit, but included it in the Bill as a function of the Electoral Commission. **Clause 10** provides for the Commission to develop and, once it is approved by the Secretary of State, administer a scheme for the payment of policy development grants to registered political parties. It will be for the Commission to propose, and the Secretary of State to approve, the formula or criteria by which such grants are allocated to eligible political parties. The detail will be set out in secondary legislation. The grants will be available to parties which are represented by at least two sitting Members of the House of Commons (in the current Parliament there are eight such parties: Labour, Conservative, Liberal Democrat, Ulster Unionists, Scottish National Party, Plaid Cymru, Social Democratic and Labour Party and Democratic Unionist Party). The Green Party's response to the White Paper suggested that the Policy Development Fund should be available not only to parties with representation at Westminster but to all registered political parties, so long as they continued to contest elections.

Under the terms of Clause 10(1)(a), a policy development grant is to be used to assist with “the development of policies for inclusion in any manifesto”. This does raise several questions of interpretation and implementation. Exactly what activities will fall within this definition? Is it always easy, or indeed possible, to draw a strict demarcation between policy work and other party activities? How will expenditure from the fund be monitored?

¹²⁶ para 7.25, p 93

F. Funding for political parties in parliament ¹²⁷

Since 1975 public funding has been available to assist opposition parties in the Commons in carrying out their essential Parliamentary duties, under the “Short money” scheme. A similar scheme was introduced in the House of Lords in 1996. These arrangements were considered by the Neill Committee in its report *The Funding of Political Parties in the United Kingdom*.¹²⁸ Neill recommended, amongst other things, a substantial increase in the sums available to opposition parties in support of their Parliamentary duties. The following section of this paper describes the Commons and Lords schemes briefly and discusses Neill’s recommendations on this subject. Only one of Neill’s recommendations is addressed in the current Bill: **Schedule 20**, paragraph 10, makes provision for an equivalent of the “Short money” scheme in the Welsh Assembly (see section 3(d) below).

1. Short Money

The purpose of these payments is to assist opposition parties in the Commons in carrying out their essential Parliamentary duties. This is in addition to the various allowances which are available to individual Members, notably the office costs allowance which funds staff and office equipment, etc.¹²⁹ The salary of the Leader of the Official Opposition, currently £58,949 (£105,957 including Parliamentary salary), and Opposition whips are also paid from public funds.¹³⁰

“Short money” was introduced by the Wilson Government following a commitment in the Queen’s Speech of 12 March 1974.¹³¹ Following talks between the parties the scheme, which took its name from the then Leader of the House, Edward Short, was introduced in 1975.¹³² It is largely spent on research support for front-bench spokesmen, assistance in the Whips’ offices and staff for the Leader of the Opposition.

When first introduced, the formula for determining the amount of Short money payable was £500 for each seat won by the opposition party concerned, plus £1 for every 200 votes cast for it at the preceding general election, subject to an overall maximum in respect of any one party of £150,000. These figures were periodically uprated until, in 1993, they were linked to changes in the retail price index. In 1987 the overall maximum was removed. In 1993, a travel fund for opposition frontbenchers was set up. Again, the expenditure has to be related to parliamentary business. Initially, £100,000 was provided. This sum was divided between the parties in the same proportion as their share of Short money.

¹²⁷ This section is provided by Edward Wood, Parliament and Constitution Centre

¹²⁸ Fifth Report of the Committee on Standards in Public Life, Cm 4057-I, October 1998, Recommendation R40, chapter 9

¹²⁹ See House of Commons Information Office Factsheet 17, *Members’ Pay and Allowances*. The maximum amount of office costs allowance payable per Member in 1999/2000 is £50,264 plus £5,026 for staff pensions. This gives a total for all Members of opposition parties of just over £13.1 million.

¹³⁰ See House of Commons Information Office Factsheet 31

¹³¹ HC Deb Vol 870, 12 March 1974, c47

¹³² HC Deb Vol 888, 20 March 1975, c1869

The current scheme, which reflects some but not all of the Neill Committee's recommendations (discussed at section (3) below), is administered under the Resolution of the House of 26 May 1999.¹³³ It has three components, set out in the first three paragraphs of the Resolution:

- 1) Funding to assist an opposition party in carrying out its Parliamentary business
- 2) Funding for the opposition parties' travel and associated expenses
- 3) Funding for the running costs of the Leader of the Official Opposition's office.

An opposition party qualifies for Short money under paragraphs 1 or 2 of the Resolution if:

- a) it has two Members who were elected as candidates for that party at the last general election;
or
- b) it has one such Member and the party received at least 150,000 votes at the last election.

The nature of the funding available under each of the three categories listed above is described in greater detail in the box:

1. General funding for Opposition Parties

The amount payable to qualifying parties from 1 April 1999 is £10,732.69 for every seat won at the last election plus £21.44 for every 200 votes gained by the party. The allowance will be updated annually on 1 April by the percentage increase in the RPI in the year to March.

2. Travel Expenses for Opposition Parties

The total amount payable under this component of the scheme for the financial year commencing on 1 April 1999 is £117,896, apportioned between each of the Opposition parties in the same proportion as the amount given to each of them under the basic funding scheme set out above. The allowance will be updated annually on 1 April by the percentage increase in the RPI in the year to March.

3. Leader of the Opposition's Office

Under the third component of the scheme, £500,000 is available for the running costs of the Leader of the Opposition's office for the financial year commencing on 1 April 1999. The allowance will be updated annually on 1 April by the percentage increase in the RPI in the year to March.

The scheme makes provision for general election years to be split into pre-election and post-election periods in order to accommodate changes in the parties' strengths in the Commons.

¹³³ *Votes and Proceedings* 26 May 1999. Resolution debated and agreed to at HC Deb Vol 332, cc 427-9.

Parties claiming Short money must provide the Accounting Officer of the House of Commons (the Clerk of the House) with an auditor's certificate confirming that all expenses claimed were incurred exclusively in relation to the party's Parliamentary business.¹³⁴ Short money is funded through the House of Commons Members' Salaries etc. Vote.

It has been the practice, from time to time, for parties to allocate some of their Short money to front-bench colleagues in the Lords in support of their Parliamentary duties. This is not precluded by the terms of the new scheme, but in view of the recent increase in "Cranborne money" described below it is possible that this may no longer happen, at least to the same degree as previously.

2. The House of Lords: Cranborne Money

This is a fairly new scheme, which is administered under the Resolution of the House of Lords of 27 November 1996,¹³⁵ as amended by the Resolution of 29 July 1999.¹³⁶ It owes its name to the then Leader of the House, Lord Cranborne, who introduced it. The scheme was intended to establish in the Lords a scheme similar to the Short money scheme in the Commons, and thereby provide financial assistance for opposition parties in the House of Lords. The salary of the Leader of the Opposition and Opposition Chief Whip in the Lords, currently £55,631 and £51,161 respectively, are also paid from public funds.

The scheme is much simpler than its Commons equivalent: a fixed sum is allocated for the Official Opposition and smaller sums for the second largest opposition party and the convenor of the Cross-Bench Peers. Each sum is updated annually on 1 April by the percentage increase in the RPI in the year to March.

The scheme makes provision for general election years to be split into pre-election and post-election periods in order to accommodate changes of Government etc. Parties claiming Cranborne money must provide the Accounting Officer of the House of Lords (the Clerk of the Parliaments) with an auditor's certificate confirming that all expenses claimed were incurred exclusively in relation to the party's Parliamentary business.

3. The Neill Report

Chapter 9 of the Neill Committee's report *The Funding of Political Parties in the United Kingdom* made a number of recommendations on the financing of political parties in Parliament:¹³⁷

¹³⁴ According to a report in the *Financial Times* of 28 December 1999, the Labour Member, Fraser Kemp, has written to the Conservative Party's auditors PwC to seek assurance that the party has not misused its Short money to fund party political activities: "MP urges PwC to probe Tory use of public money"

¹³⁵ HL Deb Vol 576 cc 267-272

¹³⁶ HL Deb Vol 604, cc 1679-86

¹³⁷ Cm 4057-I, op cit

R40: The political parties in the House of Commons should review the amount of Short money now made available to the opposition parties, with a view to increasing it substantially, perhaps by as much as three times.

R41: The political parties in the House of Commons should review the allocation of Short money to ensure that the Official Opposition's allocation is fixed and does not depend on the outcome of the previous general election and also to ensure that the allocation of Short money to all opposition parties is sufficient to enable them to perform their functions adequately.

R42: The political parties in the House of Lords should review the amount of money now made available to the opposition parties under the Cranborne money scheme, with a view to increasing it.

R43: The political parties in the House of Commons should assess the reasonable cost of running the Leader of the Opposition's Office and then, as part of the review of the Short money scheme, should specifically earmark a portion of the Short money, additional to that in recommendation 40 above, for funding that Office.

R44: The political parties within the Scottish Parliament and the new national Assemblies should consider making provision for their financial support from the available parliamentary or assembly funds for the purpose of the better performance of their parliamentary or assembly functions.

Most of these recommendations did not require primary legislation and are not therefore covered by the current Bill, although **Schedule 20** would enable the Welsh Assembly to create a scheme to support party groups within the Assembly (see section (d) below). Neill's recommendations are discussed in greater detail below.

a. Short Money

The evidence received by the Neill Committee, even from those who disapprove of state funding of political parties generally, strongly supported the continuation of the Short money scheme. The Committee endorsed this view, but recommended that the amount of Short money available should be increased "perhaps by as much as three times"; that the Official Opposition's allocation should not depend on the outcome of the previous general election; and that the allocation of Short money to all opposition parties should be sufficient to enable them to perform their functions adequately. Neill also recommended that an additional sum should be earmarked for funding the office of the Leader of the Opposition.

One problem identified by Neill was that the formula used at that time "except in a very indirect way, does not bear on the central issue of the actual demands that are made on the opposition parties in the House". Hence, the poor showing of the Conservative Party in the 1997 election led to a cut in the amount of Short money available to the Official Opposition, despite the fact

that it had “constitutional functions to perform irrespective of the number of seats it has won at the previous election or the number of votes it has attracted”.¹³⁸ Neill observed:

it can be argued that, if the party in government has an overwhelming majority in the House, it is particularly important that the Official Opposition should be adequately funded and resourced.

The Government announced on 6 May 1999 that it had agreed to increase basic Short money by 2.7 times (ie 270%).¹³⁹ In addition, the travel fund for party spokesmen would be increased in line with inflation and a specific allocation of £500,000 a year would be introduced for the Leader of the Opposition’s office. The total maximum amounts for each of the Opposition parties in the financial years 1998-99 and 1999-2000, under the old and new schemes, are set out in the following table.¹⁴⁰

Short Money: Maximum Amounts 1998-2000

Party	1998-99	1999-2000
Conservative	£1,112,886	£3,377,670
Liberal Democrat	£419,560	£1,084,896
Scottish Nationalist Party	£52,070	£134,629
Plaid Cymru	£23,922	£61,853
Ulster Unionist	£53,660	£138,735
Democratic Unionist	£13,104	£33,868
SDLP	£20,925	£54,106
TOTAL	£1,696,127	£4,885,757

The new scheme was debated on 26 May 1999. The Leader of the House, Margaret Beckett, explained it as follows:¹⁴¹

The Government are grateful to Lord Neill and to his colleagues for their work and proposals, to which we have given the most careful consideration. One of their proposals in this area - the proposal for a policy development fund, to which all parties will have access - requires further legislation and will have to await such an opportunity, but I make it plain that the Government accept that proposal in principle, and will legislate on it when parliamentary time allows.

Basic Opposition funding does not require such a delay. Hence, I lay our proposals before the House in the order that is before us. They do not mirror the Neill proposals in every respect, but they do follow his most important recommendation that overall funding should be increased

¹³⁸ Ibid, Cm 4057-I, p103

¹³⁹ HC Deb Vol 330, c433 W

¹⁴⁰ Figures supplied by House of Commons Fees Office, rounded to nearest pound

¹⁴¹ HC Deb Vol 332, cc 427-8. For political development grants, referred to in Mrs Beckett’s speech, see the preceding part of this paper.

"substantially, perhaps by as much as three times".

The motion increases the constituent parts of the existing formula - one which takes account both of votes cast and of seats won - by a factor of 2.7. It reflects the recommendation that there should be, in addition to the increase in basic Short money, a separately identified sum specifically for the office of the Leader of the Opposition, in recognition of the constitutional role played by, and thus the specific demands on, the holder of that post.

Lord Neill's committee recommended a fixed allocation of money for the official Opposition, irrespective of the outcome of an election in seats or votes, but without making a specific recommendation of an alternative formula, or method of calculation. After very careful consideration, the Government remained of the view that the existing formula, well-tried as it is, still provided the best basis for reaching such decisions.

The principal outcome of the Neill committee's work, in that respect, was the proposal substantially to increase funding for Opposition parties' parliamentary work. The Government have thoroughly honoured that recommendation. There is no doubt that the sums of money being provided for Opposition parties exceed, by a substantial amount, anything that has previously been seen. Indeed, I suspect that they exceed what anyone, including Conservative Members, might have expected. However, Labour Members believe that Parliament will be stronger as a result of the measure. I invite the House to accept the proposition.

The Shadow Leader of the House, George Young replied that¹⁴²

The view of my party on the proposal is that, while the assistance offered is slightly less than what was recommended by the Neill committee and has been slow in arriving, it is all that we are going to get from the Administration. On that basis, I will support the recommendation. It is certainly preferable to the alternative.

b. Cranborne Money

As noted above, the Neill Committee recommended that the political parties in the House of Lords should review the amount of money now made available to the opposition parties under the Cranborne money scheme, with a view to increasing it [Recommendation 42].

The Leader of the House of Lords, Baroness Jay, announced on 29 July 1999 that the Government accepted Neill's recommendation and would double the fixed sums available under the scheme (backdated to 1 April 1999).¹⁴³ Baroness Jay also announced at cc1679-80 that Cranborne money would be made available to the Cross-Bench Peers from 1 October 1999:

¹⁴² Ibid, c428

¹⁴³ HL Deb Vol 604, c 1679

The remaining paragraphs of the resolution before your Lordships today propose a new scheme under which the Convenor of the Cross-Bench Peers would, with effect from 1st October this year, have his own fund to assist him in carrying out parliamentary business on behalf of the Cross-Bench Peers. This scheme mirrors the Cranborne money scheme and is very much in the spirit of the report of the Neill committee and the Government's response to it. I am pleased to say that both Opposition parties have wholly supported the proposal that the Convenor should be funded in this way. I am sure that your Lordships will join me in supporting this recognition of the important work of the Cross-Bench Peers.

The Liberal Democrat Peer, Lord Rodgers of Quarry Bank, said that the difference between the amounts available for Conservative Peers and for his party under the revised scheme did not reflect the true extent of the Liberal Democrats' role in the Lords. The Liberal Democrats were therefore unable to support the motion.¹⁴⁴

The amount of Cranborne money available in the financial years 1998-99 and 1999-2000, under the old and new schemes, is set out in the following table.¹⁴⁵

Cranborne Money: Maximum Amounts 1998-2000

Party	1998-99	1999-2000
Conservative	£106,191	£216,842
Liberal Democrat	£31,857	£65,052
Cross-Bench Peers	Nil	£10,000
TOTAL	£138,048	£291,894

NOTE: The allocation for the Cross-Bench Peers shown above covers the period 1 October 1999 – 31 March 2000. The amount payable for the financial year starting 1 April 2000 will be £20,000, uprated by the Retail Price Index for March 2000.

c. Government Backbenchers

The Labour Party suggested in evidence to the Neill Committee that the Short money scheme should be extended to enable Government backbenchers to receive state money in support of their parliamentary functions.¹⁴⁶ The committee rejected this proposal, arguing that the purpose of Short money was to enable the effective scrutiny of the governing party by the opposition: "An extension of Short money to include Government backbenchers would not sit comfortably with that purpose".¹⁴⁷ The committee went on:

As to whether Government backbenchers should receive some sort of additional public funding (albeit not under the heading of Short money), we have some

¹⁴⁴ Ibid, cc 1681-4

¹⁴⁵ Ibid, c1680

¹⁴⁶ *The Funding of Political Parties in the United Kingdom*, op cit, Cm 4057-II, para 990

¹⁴⁷ Ibid, Cm 4057-I, para 9.27

difficulty in seeing on what ground backbenchers, including Government backbenchers, should be granted further state aid, given that they already receive an office costs allowance and travel allowances in addition to their salary. It may be the case that the allowances paid to MPs are not adequate; but that is a matter for Parliament.¹⁴⁸

d. *Scotland, Wales and Northern Ireland*

As noted above, the Neill report recommended that the political parties within the Scottish Parliament and the new national Assemblies in Northern Ireland and Wales should consider making provision for their financial support from the available parliamentary or assembly funds for the purpose of the better performance of their parliamentary or assembly functions. The committee observed that witnesses in Edinburgh, Cardiff and Belfast gave overwhelming support to the creation of such schemes. The report also noted that different arrangements might be necessary in each country due to different circumstances:

The Committee is aware of the differences which will exist between the forms that the devolved bodies take. It is also aware that the procedures of the UK Parliament – within which Short money operates – may well not be directly appropriate to them, especially the Northern Ireland Assembly, which is designed to have an Executive Committee drawn from all the parties in the Assembly. In all three bodies the political parties may well have functions related to the transaction of business, whether or not some of their members are part of the Executive. The considerations that led us not to favour the extension of Short money to Government backbenchers at Westminster may well not apply therefore. We would, on these grounds, support some sort of funding to political parties within the Scottish Parliament and the two Assemblies for the purpose of the better performance of their parliamentary or assembly functions. It may be that the funding should be made available to all the parties, not just the minority parties; it may also be that the funding should be made available to all the party groups as such, and not just spokesmen and spokeswomen. The detailed formulation must, we think, be a matter for the political parties within the individual assemblies. In the European Parliament, for example, all the political party groups receive funds to “help with secretarial expenses and administrative expenditure” made up of a fixed minimum amount per group, with a variant depending on the number of members it contains.¹⁴⁹

Transitional schemes are currently in place in Scotland, Wales and Northern Ireland. All three schemes depart from the Westminster “Short money” model to a greater or lesser extent. In Scotland, the funding is available under section 97 of the *Scotland Act* and the *Scottish Parliament (Assistance for Registered Parties) Order* [SI 1999/1745]. Funding is provided for the Liberal Party, a formal partner in the Scottish coalition, in addition to the opposition parties.¹⁵⁰ The scheme is based on the formula of £5,000 per MSP belonging to a

¹⁴⁸ Ibid, Cm 4057-I, para 9.28

¹⁴⁹ Op cit, Cm 4057-I, para 9.30

¹⁵⁰ See Scottish Parliament Information Centre (SPICe) Research Paper 99/4, *Financial Assistance for Registered Parties*, available at www.scottish.parliament.uk/whats_happening/publications.html

registered party. This will be uprated in line with inflation in subsequent years. The funding available for the major eligible parties in the period 1 July 1999 to 31 March 2000 is as follows:

Scottish Parliament: Assistance for Registered Parties 1999-2000

Party	Seats	Money
SNP	35	£175,000
Conservative	18	£90,000
Liberal Democrat	13 ¹⁵¹	£65,500

In Northern Ireland, a temporary scheme for the shadow Assembly was established prior to devolution. The scheme comprised an initial payment of £10,000 for each party represented in the Assembly plus £1,000 per seat for the first six months of the shadow Assembly. In December 1998 the Secretary of State agreed to extend the scheme on a month by month pro-rata basis until devolution. A Bill to enable the establishment of a permanent scheme, the *Financial Assistance For Political Parties Bill*, is currently before the Assembly.¹⁵² The details of the scheme are not specified in the Bill: the Northern Ireland Assembly Commission would be placed under a duty to prepare and lay a scheme before the Assembly “as soon as practicable” after the Bill came into force.

The Welsh Assembly currently lacks the specific power available to the Scottish Parliament to establish an equivalent to the “Short money” scheme. At present a Party Leaders’ Allowance is payable: a fixed sum of £45,000 is paid to the leader of each of the parties represented in the Assembly, plus an additional sum of £3,000 for each Assembly Member belonging to a party not represented in the Assembly Cabinet. The allowance is paid under the general power to pay salaries and allowances to Assembly Members contained in section 16 of the *Government of Wales Act 1998*.

Schedule 20, paragraph 10 of the current Bill would insert a new section 34A into the *Government of Wales Act 1998*, enabling the Welsh Assembly to create a scheme of payments to members of political groups within the Assembly for the purpose of assisting them to perform their functions. This would appear to put the payment of public money to parties in the Assembly on a firmer legal footing, but it is not clear whether there would be any substantial difference in practice as a result of the change.

The following aspects of s34A are noteworthy:

¹⁵¹ This total does not include the 4 Liberal Democrat MSPs who hold ministerial posts, but includes the Presiding Officer who was elected as a Liberal Democrat MSP but, on election as Presiding Officer, declared that he had set aside party affiliation: SPOR 12.5.99, Vol 1 c9

¹⁵² NIA Bill 3/99, available at www.ni-assembly.gov.uk/legislation.htm See also the Explanatory and Financial Memorandum to the Bill at the same site

1. The provision would enable the Assembly to make payment to all groups, not just opposition parties. This may be contrasted with the equivalent provision in the *Scotland Act*, s97, which places a restriction on payments to parties which are represented in the executive (although the nature of the restriction would appear to be somewhat flexible). The approach adopted for Wales results from the different legal status of the Welsh Assembly: it is, formally speaking, an executive body rather than a legislature, and civil servants are therefore responsible to the Assembly as a whole rather than just its ministers.
2. Different provision may be made for different groups within the Assembly. This would presumably enable the scheme to direct larger sums to parties which are not represented in the Assembly Cabinet, reflecting the situation which exists at present under the transitional scheme.
3. Any scheme made under s34A must be passed by a two-thirds majority of Assembly Members voting.

e. Secondment of Civil Servants

The House of Commons Home Affairs Committee report on *Funding of Political Parties* in 1994 recommended that the Government should consider the feasibility of allowing opposition parties in Parliament one or two civil servants on temporary attachment.¹⁵³ The Conservative Party, in its written submission to the Neill Committee, said that it supported “a limited number of civil servants being seconded to help the major opposition parties develop policy.”¹⁵⁴ In evidence, Lord Parkinson, then party Chairman, explained the proposal more fully, saying that what he envisaged was an extension of a principle that was already accepted, namely, that in the run-up to an election the party in government allows the opposition parties to make contact with civil servants in the departments.¹⁵⁵ In addition, four junior civil servants are attached to the Official Opposition Whip’s office as assistants.

Neill, however, rejected the temporary attachment of policy civil servants to opposition parties, especially in view of the proposal that the existing Short money should be increased. The committee endorsed the evidence given by the Liberal Democrat, Lord Rodgers:

I think that if one works for a political party, one does begin to identify with it, both personally and in terms of ideas. It is one thing to serve Governments as they change, and civil servants are extremely good at doing that, but the technique, style and values of opposition are very different from those of Government.¹⁵⁶

¹⁵³ HC 301 of 1993/94, para 57

¹⁵⁴ Written submission to the Committee from the Conservative Party, App V, p241

¹⁵⁵ *The Funding of Political Parties in the United Kingdom*, op cit, Cm 4057-II, para 1470

¹⁵⁶ *Ibid*, Cm 4057-II, para 2951

VII Tax Exemptions for Donations¹⁵⁷

In some countries donations to political parties attract tax relief. This has been seen as a means of encouraging wider public participation in the political process in general, and might also help redress the danger of large institutions gaining disproportionate influence.

At present in this country there is only one form of tax relief for donations to political parties. Certain gifts are exempt from inheritance tax irrespective of their size, and irrespective of whether they are made during one's life, or made under the terms of one's will:¹⁵⁸ namely, gifts made to one's spouse or to charities, dispositions for the national interest, and *donations made to political parties*. In the case of the latter, exemption from inheritance tax can be claimed only if at the last general election two members of the nominated party were elected to the House of Commons, or one member was elected and the party obtained at least 150,000 votes.¹⁵⁹

The Committee on Standards in Public Life – the Neill Committee - has argued that income tax relief should be introduced on personal political donations of up to £500 to 'eligible' registered political parties, using the same eligibility test as now applies for inheritance tax relief. Tax relief would be deducted at source, and limited to the basic rate of tax.¹⁶⁰ However, the Government has rejected this proposal, on the grounds that this proposal would be administratively inefficient, and represent too great a drain on the Exchequer.¹⁶¹ The following paragraphs give a short introduction to this issue.

In its report on the funding of political parties, the Neill Committee noted that in several countries, including the United States, Canada and Italy, personal donations to political parties qualified for income tax relief, and suggested that a similar tax relief should be introduced in the UK, to encourage an activity that the Committee regarded as both "meritorious and ... a contribution to the democratic process." In the Committee's view, the principal advantage to such a scheme was that it would encourage a different pattern to political donations, so that parties would not rely for the funding needs on a relatively small number of donors, each making large donations: "We have found very widespread support for the view that it is more democratic, and therefore in the public interest, that political parties should be funded by a large number of small donations rather than by a small number of large donations. A system of tax relief which increases the value to political parties of smaller donations is likely to encourage the parties to make greater efforts to obtain them."¹⁶²

¹⁵⁷ This section is provided by Antony Seely, Business and Transport Section

¹⁵⁸ Inheritance tax is levied on the value of a person's estate at the time of their death. The tax is charged at 40% above the tax-free threshold, which is £231,000 for 1999-2000

¹⁵⁹ under section 24 of the *Inheritance Tax Act 1984*, as amended

¹⁶⁰ Cm 4057 October 1998 p 99

¹⁶¹ Cm 4413 July 1999 para 6.3

¹⁶² Cm 4057 October 1998 pp 95-96

To back this assertion, the Committee cited Dr Michael Pinto-Duschinsky (Senior Research Fellow in Politics, Brunel University), who was asked when giving evidence, whether the Canadian system of providing income tax relief had changed the structure of party funding:

831. Lord Neill: ... What has been the effect in Canada of encouraging large numbers of small donations?

832. Michael Pinto-Duschinsky: I have not done any direct research on this myself, so I consulted a German colleague, Professor Nassmacher, who I believe some of you met in Bonn. He has made a very detailed study of it and I gather from him that he would consider that the tax credit has indeed had that effect. He was saying that the tax credit means that the party has to pursue members in order to get the credit, but it does leave decisions up to individual members. So I think that it has had that effect, yes.¹⁶³

Although the Committee expected the scheme to have positive results, it emphasised that its impact should not be over-estimated: “We should add that it is quite uncertain how much benefit will result to the political parties from the tax relief system which we favour. It would be a mistake to indulge in over-optimistic estimates. Nevertheless, we believe that our proposal is sound in principle and should act as a spur to democratic participation in the political process.” In addition, it noted that one further advantage to this method of party funding over the direct payment of state funds was that “the allocation of the relief is in the hands of individual taxpayers and requires a contribution from them.”¹⁶⁴

The Committee noted three possible disadvantages to a system of income tax relief on donations: that it would not act as an incentive for non-taxpayers (although very few non-taxpayers would be among subscribing party members), that it carried an opportunity cost in depleting resources for public expenditure (although this was inherent in any tax concession), and that it would encourage other non-profit organisations to lobby for similar relief (although it was a matter for Government to decide if political parties were a special case or not). It concluded that the balance of argument was in favour of tax relief. Providing relief at source was the only administratively practicable method, given that most taxpayers’ liabilities are discharged under PAYE. The Committee went on to recommend that relief should be limited to the basic rate, so that it did not discriminate in favour of higher rate taxpayers, and capped at an annual figure of £500, which represented, “a balance between setting the level so high that it loses its purpose of encouraging parties to seek large numbers of smaller donations or setting it so low that the benefit of tax relief is not worth pursuing.”¹⁶⁵

However, in its response to the report, the Government rejected this recommendation:

¹⁶³ Cm 4057-II October 1998 p 73

¹⁶⁴ Cm 4057 October 1998 p 99 p 96

¹⁶⁵ Cm 4057 October 1998 p 98

The Committee proposed that donations to political parties, below a certain level, should be eligible for income tax relief at the basic rate. The Government is not persuaded by this recommendation. Tax relief would amount to general state aid by another route. A tax-relief scheme would be expensive for the Inland Revenue and political parties to administer relative to the likely level of take-up. Furthermore, the Government has to balance the loss of revenue (likely to be upwards of £4 or £5 million a year) against other spending priorities.¹⁶⁶

Prior to this, the Committee's proposal was debated at the Committee stage of the Finance Bill in June 1999;¹⁶⁷ the Government rejected an amendment put forward by the Conservative Opposition, which would have committed the Government to introducing this form of tax relief, primarily on the grounds that to do so would have pre-empted the Government's formal response to the Committee's report. On this occasion the Economic Secretary to the Treasury, Patricia Hewitt, went on to argue that the question needed to be seen in the wider context of tax relief afforded both to charities and those political organisations not covered by the Committee's definition of political parties:

The question of whether there should be tax relief for donations to political parties--and, if so, how it should operate--must be considered alongside all the proposed measures that we intend to publish in the draft Bill before the summer. We should not try to deal with this one aspect in isolation.

It is also necessary to consider the issue of tax relief for donations to political parties alongside the review of tax relief for charitable donations--something that we are already working on with the charitable sector.¹⁶⁸ It would be most unfortunate if the system appeared to be more generous in relation to smaller donations to political parties than in relation to smaller donations to charities.

The Neill report also draws attention to the difficulty of establishing a system of tax relief for donations to political parties but not extending equivalent reliefs, or reliefs such as those that are now available to charities and to organisations, such as Amnesty International, that do not qualify for tax relief. That organisation is not a charity because its work is seen as political, but it would not qualify for the relief recommended by the Neill committee because it is not a political party.¹⁶⁹

The issue of administrative cost was raised in a written question in the Lords:

Lord Goodhart asked Her Majesty's Government: In view of the statement in paragraph 6.3 of the response of the Home Office to the Fifth Report of the

¹⁶⁶ Cm 4413 July 1999 para 6.3

¹⁶⁷ Standing Committee B 22 June 1999 cc 767-779

¹⁶⁸ In light of the responses to a consultation document – *Review of Charity Taxation* – published at the time of the March 1999 Budget, the Government announced in the Pre-Budget Report a series of changes to the tax position of charities, most of which will be implemented in the 2000 Finance Bill. For details see, HM Treasury, *Pre-Budget Report* Cm 4479, November 1999 pp 90-91

¹⁶⁹ Standing Committee B 22 June 1999 c 778

Committee on Standards in Public Life that the tax relief scheme on donations to political parties as proposed by the committee would be expensive for the Inland Revenue to administer, what would be the estimated annual cost to the Inland Revenue of administering such a scheme.

Lord Bassam of Brighton: The reasons given in the White Paper for not allowing tax relief on donations to political parties are that it would amount to general state aid by another route; that it would be expensive for the Inland Revenue and political parties to administer relative to the likely level of take-up; and that the Government have to balance the loss of revenue against other spending priorities. The administrative costs have not been estimated precisely either in the Neill Committee's report or subsequently. It is, however, clear that they would significantly offset the benefit, particularly in relation to smaller donations. The Neill Committee recognised in paragraph 8.21 of its report that below a certain level it would be uneconomic for a party to claim tax relief on a donation.¹⁷⁰

The Committee referred specifically to this answer in its response to the Government's proposals on political funding; the relevant part of the Committee's letter to the Home Secretary is reproduced below:

We are disappointed that you have decided against our proposals in relation to a tax relief system on the ground, amongst others, that it "would be expensive for the Inland Revenue and political parties to administer relative to the likely level of take-up" (paragraph 6.3 of the White Paper). Bearing in mind that tax relief is given to thousands of charities, we thought it unlikely that the administrative costs would be prohibitive. In a recent Written Answer (HL (*Hansard*) 13 October 1999), Lord Bassam of Brighton, Parliamentary Under-Secretary of State, has stated that the administrative costs of a tax relief scheme have not been estimated. We invite you to make such an estimate, and we strongly urge you to reconsider our proposals on tax relief on political donations in the light of your conclusions as to the administrative cost of their implementation.¹⁷¹

To date, it appears that the Government has not responded to this request.

VIII Honours System

Abuse of the honours system undoubtedly occurred during the early years of the twentieth century when honours were bought and sold fairly openly. Various honours scandals were considered contributory factors to the fall of Lloyd George's Government in 1922. A Royal Commission was set up in September 1922, under the chairmanship of Lord Dunedin, to look into the procedures regarding the award of honours. There was one class of honours – those given for political service – where the Commission considered that the system was not operating satisfactorily. The Commission's work led to two significant developments:

¹⁷⁰ HL Deb 13 October 1999 c 88WA

¹⁷¹ *The funding of political parties: the Government's proposals for legislation*, 15 October 1999

- the establishment of the Political Honours Scrutiny Committee (PHSC) in 1923 to examine the background and circumstances of those nominated for political honours to ensure that they were “fit and proper” persons; and
- the enactment of the *Honours (Prevention of Abuses) Act 1925*

Despite the fact that there have been no convictions under the terms of the 1925 Act, charges that the practice persists, albeit not so openly, have resurfaced, particularly during the 1980s and 1990s. On the evidence of work done by the Labour Party into donations to the Conservative Party and the awarding of honours¹⁷², one commentator has stated – “Few can doubt that there is indeed a high correlation between those companies that gave large donations to the Conservative Party and honours which are distributed to one or more of the directors of the company”¹⁷³.

The Political Honours Scrutiny Committee is limited to three members of the Privy Council, who must not be members of the Government. They are appointed by the incoming Prime Minister and are appointed “for the period of the duration of office of the present Government”¹⁷⁴. The PHSC’s function is one of scrutiny only: it considers the names of persons submitted by the Prime Minister. The Neill Committee took evidence from the PHSC in its inquiry, in which the PHSC reaffirmed its adherence to two main criteria:

- a donation to a political party should not disqualify the donor from receiving an honour
- an individual nominated for an honour should be “meritorious on the basis of their achievements quite apart from any donation”¹⁷⁵

The Neill Committee report included the following recommendations relating to the role of the PHSC:

98. In future the Political Honours Scrutiny Committee (PHSC) should be requested to scrutinise every case where a nominee for an honour of CBE and above has directly or indirectly donated £5,000 or more to a political party at any time in the preceding five years. The PHSC should satisfy itself that the donation has made no contribution to the nomination for an honour.

99. In future the PHSC should monitor the relationship between nominations for honours (at CBE level and above) and donations made to political parties or associated organisations in order to ensure that an undue preponderance of honours is not conferred on those who have directly or indirectly made donations.

100. The PHSC should be renamed the ‘Honours Scrutiny Committee’.

¹⁷² see, for example, various reports from the Labour Research Department and the Labour Party memorandum of evidence to the Home Affairs Select Committee on the funding of political parties, HC 726 1992-93

¹⁷³ Robert Blackburn, *The Electoral System in Britain*, 1995, p 323

¹⁷⁴ Order of Council 20 May 1997

¹⁷⁵ opening statement in oral evidence, Vol 2, p 258

In its White Paper (Chapter 10) the Government accepted in principle these three recommendations. With regard to the first two, it proposed to wait until the Electoral Commission's register of political donations was available, and to wait until the register covers at least three years before extending the scrutiny to CBE level.

The changes to the name and the role of the PHSC are not included in the current Bill as they are tied up with the establishment of the independent Appointments Commission to examine nominations for life peerages in the reformed House of Lords. The Appointments Commission will be constituted as an advisory Non-Departmental Public Body (NDPB) and will take on most of the current role of the PHSC. However, it will not necessarily take on the current membership, since appointments will be subject to the guidance of the Commissioner for Public Appointments.

Appendix 1 – Neill Committee report: relevant recommendations

The Funding of Political Parties in the United Kingdom Committee on Standards in Public Life, Cm 4057, 13 October 1998

Chapter 4: Donations: Transparency and Reporting

1. Donations to the funds of political parties from one source which total £5,000 or more in one year must be publicly disclosed. (p 53)
2. Donations to party constituency organisations or to regional organisations of political parties from one source which total £1,000 or more in one year must be publicly disclosed. (p 53)
3. Audited annual accounts of income and expenditure of political parties should be delivered to the Election Commission within three months of each year's end. (p 54)
4. The Election Commission should have power to prescribe a standard year and a standard form for such accounts. (p 54)
5. State funds should be made available to political parties for the purpose of meeting the start-up costs of complying with the new disclosure regulations. (p 54)
6. The term 'donation' should be broadly defined and should include sponsorship and donations in kind. (p 55)
7. The published information concerning donations should clearly identify the donor, specify the amount of the donation or its cash value, state the date when made (or, in the case of a series of donations exceeding the statutory limit, the date of the last one) and whether made to the central funds of the party or to a constituency association etc. (p 56)
8. Anonymous donations of £50 or more should be refused. (p 56)
9. There should be an obligation on a political party's central office to designate a responsible officer whose duty would be to report to the Election Commission all disclosable donations received by any part of the party's organisation. (p 57)
10. The Election Commission should publish as soon as possible after receipt the information concerning disclosable donations reported to it by the political parties. It should also maintain a public register of all disclosed donations. (p 57)
11. In periods between elections each political party should report quarterly to the Election Commission the relevant information concerning disclosable donations received. (p 58)
12. In an election period (a term to be defined in legislation) each political party should report to the Election Commission the best available information concerning donations received within seven days of receipt. (p 58)
13. The Election Commission should have wide powers to call for information and to investigate the financial affairs of political parties. (p 59)
14. There should be criminal sanctions for a deliberate failure to report to the Election Commission a disclosable donation and for the supply of false information to the Commission. (p 59)
15. In any case of a failure to report to the Election Commission a disclosable donation (whether such failure is deliberate or inadvertent) the court should have power to order the defaulting political party to forfeit a sum not exceeding the unreported donation. (p 59)
16. Prosecutions should be brought by the Director of Public Prosecutions and not by the Election Commission. (p 59)
17. It should be made a criminal offence to take intimidatory or discriminatory action against any person or body in consequence of any donation made or proposed to be made by any person or body to any political party. (p 59)

18. It should be made a criminal offence to attempt to evade or render nugatory the statutory reporting requirements relating to disclosable donations. (p 60)
19. Any person or organisation transmitting to a political party any consolidated donation which consists of contributions received from two or more persons should supply a list of any individual donations received which are at or above the disclosure threshold. (p 60)
20. The Government should consider in the context of the development of the peace process whether it would be expedient to introduce a short term and reviewable exemption from the reporting requirements in respect of donations made to political parties in Northern Ireland. (p 61)
21. Blind trusts should be prohibited as a mechanism for funding political parties, party leaders or their offices, Members of Parliament or parliamentary candidates. (p 62)
22. Open trusts designed to fund party leaders or their offices, Members of Parliament or parliamentary candidates should be permitted but on condition that the trustees are bound to report to the Election Commission any donations which would be disclosable if made to a political party. The recommendations made earlier in this chapter should apply with appropriate modifications. (p 62)
23. Donations of £5,000 or more given to an individual party member or group, in connection with political activity within the party or publicly, should be made through the creation of an open trust or be subject to similar provisions and should be reported to the Election Commission. (p 63)

Chapter 5: Foreign Donations

24. Political parties should in principle be banned from receiving foreign donations. (p 71)
25. Political donations should be receivable by political parties only if originating from a permissible source (as defined). (p 71)
26. The definition of a permissible source should cover:
- As to individuals: registered UK voters and those entitled to register as UK voters
 - As to corporations: companies incorporated in the United Kingdom
 - As to partnerships: partnerships based in and having their principal sphere of operations in the United Kingdom
 - As to trade unions: trade unions registered here pursuant to statute
 - As to other organisations: organisations, voluntary associations and trusts etc. genuinely based in and having their principal sphere of operations in the United Kingdom (but excluding branches of foreign organisations of whatever character). (p 74)
27. It should be made a criminal offence to attempt to evade or render nugatory the statutory provisions which confine political parties to donations received from a permissible source. A specific provision should be made to cover possible abuse by the utilisation of UK subsidiaries of foreign corporations. (p 74)
28. The responsibility for ensuring that donations are received only from a permissible source should be placed on each political party. The designated responsible officer of the party would be required to certify the position to the Election Commission annually when reporting on the donations received. (p 75)
29. In relation to donations to political parties in Northern Ireland, the definition of a permissible source should also include a citizen of the Republic of Ireland resident in the Republic subject to compliance with the Republic's Electoral Act 1997. (p 77)
30. The Election Commission should have wide powers to call for information and to institute investigations into any suspect foreign donations received by a political party or a sub-unit. (p 77)

31. Criminal sanctions should attach to a deliberate acceptance of a donation from a source falling outside the definition of a permissible source. There should be a power for the court to order a defaulting political party to forfeit a sum of up to ten times the donation wrongfully accepted. (p 77)

Chapter 6: Donations: Other Issues

32. No limit should be introduced on the amount which an individual, company or institution may contribute to a political party. (p 80)

33. No change should be made in the law relating to trade unions and their political funds. (p 83)

34. Legislative provision should be made to require any company intending to make a donation (whether in cash or in kind, and including any sponsorship, or loans or transactions at a favourable rate) to a political party or organisation to have the prior authority of its shareholders. This authority could be in the form of a broad enabling power, valid for no longer than four years, and typically conferred by a resolution passed at an annual general meeting giving the board of directors discretion about the making of such donations up to a prescribed limit. (p 86)

Chapter 7: Public Funding of Political Parties

35. The provision of free postage (for Parliamentary and European elections) and free rooms (for Parliamentary, European and local elections) should be continued and extended to elections to the Scottish Parliament, to the National Assembly for Wales and to the Northern Ireland Assembly. (p 89)

36. No new system should be introduced whereby the state is obliged for the indefinite future to provide financial support for the political parties. (p 93)

37. There should be established a Policy Development Fund, initially of no more than £2 million per annum, to enable the political parties to engage more fully in policy development. The fund should be administered by a politically neutral body, to which the parties should be accountable for the monies spent. (p 93)

Chapter 8: Tax Relief

38. Tax relief by deduction at source should be introduced, limited to the basic rate, on donations of up to £500 a year to eligible registered political parties. (p 99)

39. Political parties should be eligible to claim under the tax relief scheme if at the last general election two members of the party were elected to the House of Commons or one member was elected and the party won at least 150,000 votes. (p 99)

Chapter 9: Financing Political Parties in Parliament

40. The political parties in the House of Commons should review the amount of Short money now made available to the opposition parties, with a view to increasing it substantially, perhaps by as much as three times. (p 103)

41. The political parties in the House of Commons should review the allocation of Short money to ensure that the Official Opposition's allocation is fixed and does not depend on the outcome of the previous general election and also to ensure that the allocation of Short money to all opposition parties is sufficient to enable them to perform their functions adequately. (p 104)

42. The political parties in the House of Lords should review the amount of money now made available to the opposition parties under the Cranborne money scheme, with a view to increasing it. (p 105)

43. The political parties in House of Commons should assess the reasonable cost of running the Leader of the Opposition's Office and then, as part of the review of the Short money scheme, should specifically earmark a portion of the Short money, additional to that in recommendation 40 above, for funding that Office. (p 106)
44. The political parties within the Scottish Parliament and the new national Assemblies should consider making provision for their financial support from the available parliamentary or assembly funds for the purpose of the better performance of their parliamentary or assembly functions. (p 109)

Chapter 14: The Honours System

98. In future the Political Honours Scrutiny Committee (p HSC) should be requested to scrutinise every case where a nominee for an honour of CBE and above has directly or indirectly donated £5,000 or more to a political party at any time in the preceding five years. The PHSC should satisfy itself that the donation has made no contribution to the nomination for an honour. (p 191)
99. In future the PHSC should monitor the relationship between nominations for honours (at CBE level and above) and donations made to political parties or associated organisations in order to ensure that an undue preponderance of honours is not conferred on those who have directly or indirectly made donations. (p 193)
100. The PHSC should be renamed the 'Honours Scrutiny Committee'. (p 193)

Appendix 2 Party finances¹⁷⁶

The Neill Committee reported the following breakdown of sources of income of the three main parties:¹⁷⁷

Income of Political Parties 1992 - 1997

	<i>£ million</i>						
	1992	1993	1994	1995	1996	1997	
Labour Party							%
Subscriptions	1.6	1.7	1.9	2.5	2.1	1.9	8%
Affiliation fees	7.1	6.9	6.7	6.8	6.9	6.4	27%
Donations	3.5	3.0	3.7	4.2	10.1	14.5	60%
Commercial	0.3	0.4	0.4	0.5	0.6	0.4	2%
Other	0.7	0.8	1.0	1.1	1.8	0.9	4%
<i>Total</i>	<i>13.2</i>	<i>12.8</i>	<i>13.7</i>	<i>15.1</i>	<i>21.5</i>	<i>24.1</i>	100%
Conservative Party							
Donations	20.0	7.8	9.4	12.7	18.8	38.2	90%
Constituency quota	1.3	1.1	0.7	0.9	0.8	1.1	3%
Sundry income	2.1	2.7	4.0	1.7	1.8	3.2	8%
<i>Total</i>	<i>23.4</i>	<i>11.6</i>	<i>14.1</i>	<i>15.3</i>	<i>21.4</i>	<i>42.5</i>	100%
Liberal Democrat Party							
Subscriptions	0.9	1.2	1.2	1.2	1.2	1.3	34%
Donations	2.1	0.6	1.2	1.1	1.5	2.5	66%
<i>Total</i>	<i>3.0</i>	<i>1.8</i>	<i>2.4</i>	<i>2.3</i>	<i>2.7</i>	<i>3.8</i>	100%

Source: Fifth Report of the Committee on Standards in Public Life Cm 4057-I pp30-31

The Labour Party's income from trade unions fell from 66% in 1992 to 35% in 1996, and rose to 40% in 1997. The Conservative Party has become more reliant on non-institutional sources of income. In the 1980s, for example, it was estimated that around 50% of their income was from corporate sources. According to the 1996/7 party's accounts, that figure has now fallen to around 20%.¹⁷⁸

¹⁷⁶ provided by Richard Cracknell, Social and General Statistics Section

¹⁷⁷ Cm 4057-I (further details of Party funding can be found in the CD-Rom in Volume 2 of the 5th Report – Written Evidence 16-427 to 16-435)

¹⁷⁸ Cm 4057-I pp 31-2

Appendix 3 Overseas electors

Table 1

Parliamentary electors: 1987-1999 United Kingdom

	Total	Service voters	Attainers	Voluntary patients	Overseas electors	Overseas as % of total
1987	43,666,375	277,336	708,653	2,870	11,100	0.03%
1988	43,705,071	272,967	691,444	2,736	2,092	0.00%
1989	43,613,960	272,714	655,200	2,142	1,836	0.00%
1990	43,663,423	266,494	626,858	1,639	1,237	0.00%
1991	43,556,783	271,689	560,893	1,661	34,454	0.08%
1992	43,724,886	274,559	551,961	2,387	31,942	0.07%
1993	43,718,537	265,424	516,121	1,971	22,131	0.05%
1994	43,786,734	250,994	500,187	1,311	18,552	0.04%
1995	43,896,208	229,728	480,050	1,151	17,934	0.04%
1996	43,984,745	212,516	501,074	1,020	17,886	0.04%
1997	44,206,604	203,281	526,083	1,195	23,583	0.05%
1998	44,296,793	200,505	522,777	864	17,315	0.04%
1999	44,388,885	197,762	516,239	743	13,677	0.03%

Office for National Statistics, *Electoral Statistics 1999*, Series EL
no.25 and earlier editions