HOUSE OF LORDS

Revised transcript of evidence taken before

The Select Committee on Trade Union Political Funds and Political Party Funding

Inquiry on

TRADE UNION POLITICAL FUNDS AND POLITICAL PARTY FUNDING

Evidence Session No. 4 *Heard in Public* *Questions 20 - 30*

TUESDAY 9 FEBRUARY 2016

10.20 am

Witnesses: Lord Bew and Sir Christopher Kelly

Members present

Lord Burns (Chairman)
Lord Callanan
Lord De Mauley
Baroness Dean of Thornton-le-Fylde
Baroness Drake
Earl of Kinnoull
Lord Richard
Lord Robathan
Lord Sherbourne of Didsbury
Lord Tyler
Lord Whitty
Lord Wrigglesworth

Examination of Witnesses

Lord Bew, Chair, Committee on Standards in Public Life, and **Sir Christopher Kelly**, former Chair, Committee on Standards in Public Life

Q20 The Chairman: Good morning, Lord Bew and Sir Christopher. Thank you very much for coming to the Committee today. As you know, we are looking at the whole question of Clauses 10 and 11 of the Trade Union Bill. One issue that has very much come to the fore is the relationship between that and political funding. Do you want to say anything by way of opening remarks?

Lord Bew: I will make a brief opening statement to explain the division of labour between Sir Christopher and myself today. I was appointed chair of the Committee on Standards in Public Life in 2013, for a five-year term. The committee is made up of four independent members and three political members, representing the Conservative, Labour and Liberal Democrat parties. Of the current membership, only two members, Dame Margaret Beckett and Lord Alderdice, were members at the time of the publication of the 2011 report that is at the centre of our discussions today. Indeed, at that point, Dame Margaret Beckett published a dissenting minute, which is included in the body of the report, and which you will have seen.

Sir Christopher Kelly, who was then chairman, is here to speak about the background to that report and its detailed recommendations. However, I repeat the assertions that I made in the House that to extract one element of the reforms recommended by the committee in

2011 is not in the spirit of the report. Time has moved on. The 2011 model was based on information available at the time. Certain perceptions of certain issues have changed, and it now requires updating and remodelling. As the minimum starting point, the gaps in information about parties' funds and expenditure should be filled in and parties should move to the common accounting standard set out by the Electoral Commission, to allow proper comparison and accountability.

The Chairman: Thank you very much. By way of an opening question, can you give us any insight into where you think we are in the whole debate around political funding?

Lord Bew: Right now? I wrote to all the party leaders after the election. I cannot describe the responses as particularly positive. The party manifestos—including the Conservative manifesto, not just in 2010 but in 2015—all make reference to progressing the issue of reform in this area. Noticing that, I said, "Look, we have a document". I was very anxious to convey the fact that I understood the difficulties of the issues, which relate not just to the attitudes of the parties on particular points but to the attitude of the public to one of our suggestions, which is state funding. The public are deeply unsympathetic to that particular proposal. None the less, we really need to advance this and to have a serious discussion; it would be wrong to leave the thing just sitting there, in a very unsatisfactory state.

Only the Conservatives replied. In their reply, they draw attention to the fact that the public are unsympathetic to state funding. It is not a particularly encouraging reply. We are still waiting for replies from the other parties. There have been changes of leadership and so on, but we have asked a number of times and are still waiting for those replies. That gives you some indication that it would be wrong for me to say to the Committee that I was detecting enthusiasm to move the situation forward. There are a range of issues, including the expenses of parties generally, where the parties may have slipped into a slightly too casual mode. I would love to see something more active.

The Chairman: What do you think your next steps will be—first, with the committee?

Lord Bew: Although the public are not sympathetic to state funding, they believe—the Electoral Reform Society figures are 77%—that people give money to political parties only because they expect something in return, such as a peerage. However fair or unfair that may be is not quite the point at this stage. There is that perception, which is deeply rooted. One of the big issues in general for us as a committee is the debate about trust. I prefer to say "trustworthiness", because the level of real trustworthiness among people in politics may well be higher than the level of trust related to the question of money in politics, which is increasingly showing a worrying downward trend. We intend before too long to encourage a debate in that area. We were talking in the office yesterday about having another seminar on the issue, which would attract some public attention to it.

Lord Robathan: Sorry. Could you say that again?

Lord Bew: I am sorry, Lord Robathan. We will have another seminar and debate on the subject and ask the parties to come. We are also going to poll again on questions such as the cap. Is the figure in our report for a cap on donations realistic? Would the public have a different view? That might feed into a modernisation of some of our recommendations.

The Chairman: Interpreting what you have said, would it be fair to say that, as far as seeing real progress in this area is concerned, we should not hold our breath?

Lord Bew: Absolutely. All I can do is write to the parties, which I do periodically. I have no reason to believe that there is any enthusiasm at this point to address this or other cognate issues.

I want to let Sir Christopher in. However, while I have the floor, could I make an additional point on this? If we have a discussion, wherever it is promoted, it is reasonable to say that we are moving into new terrain. What justifies my belief that there should be a new look at this is the fact that, for example, as far as the Labour Party is concerned, if the legislation goes through, the situation has changed and, in its view, at least, changed for the worse. That is obvious and is something that we will pick up in the debate. Equally, if you look at Sir Oliver Heald's dissenting minute, which sits alongside Margaret Beckett's in our original report, you will see concern on the Conservatives' behalf that the proposals in our report for the cap are not realistic, because at that time the Conservatives had donors who loved them for a while and then went off. The tacit assumption was that averaging out donations might be a way the Conservative Party could live with the proposals in our report, but he says, "No. Look at what has happened with that", and gives examples of recent donors. The pattern at that time—say, four years ago—was that Conservative donors loved them for a while and then shot off to UKIP. Is that still true? I think we are in different terrain—possibly, significantly different terrain—for both parties. That is why they have every reason to push forward the debate. I am trying to encourage a debate here.

Q21 Lord Tyler: Sir Christopher, could I ask you about the preparation of your report, which the House has specifically asked us to examine? Lord Bew has already referred to the issue that caused most anxiety when the report was published: the suggested increase in state funding. Did your committee look at ways of reallocating existing state funding? For example, I have just seen the figures for last year's general election, in a parliamentary reply yesterday to my colleague Lord Rennard. The cost of delivering election mailings for candidates last year was £41.7 million. There is a similar figure for the European parliamentary election. Did your committee consider whether there was any possibility of reallocating state funding in a way that might be more acceptable?

Sir Christopher Kelly: We looked at that to some extent, without turning it into a firm recommendation. We tried to put what we were suggesting—a relatively modest amount of state funding, which at that point we thought would probably be necessary—in the context of the much greater public subsidies that were already provided for the purposes of supporting democracy. I refer not just to free postage, but to the availability of buildings, Short money, Cranborne money and all that. We were anxious to make the point, first, that this was not a new principle and, secondly, that some of that money—particularly the postal money, as you suggest—might be out of date, in an age of web-based campaigning.

Lord Tyler: Taking up Lord Bew's point that life has moved on, are there particular areas that you think your committee would now want to re-examine? For example, presumably your recommendation on cutting the limits on spending is something you would want to look at again in the light of the latest figures. Figures from the Electoral Commission tell us that the Labour Party spent £7.3 million on unsolicited material for electors, the Conservative Party spent £4.3 million, the Liberal Democrats spent £1.9 million—I do not know where they got that from.

Lord Wrigglesworth: Ask the treasurer.

Lord Tyler: UKIP spent £267,000. Obviously, that has increased dramatically since your report.

Sir Christopher Kelly: Lord Tyler, can I answer that question in a slightly indirect way? I will begin by explaining why we thought that this was a package, which is part of the issue anyway. We put this forward and laid a lot of stress on it as a package, for two reasons. One was principled and one was pragmatic.

The principle was that we thought it was wrong that any of the parties should be almost wholly reliant on significant sums from significant donors, whether they were people who had made their own money, or people who were donating through private companies or trade unions. We thought that was wrong in principle. Whether or not the system was absolutely corrupt, it was, in our words, "clearly corruptible". As Lord Bew said, the public believe that. On the basis of the polling that we did, the public were clearly as worried about donations from trade unions as they were about donations from millionaires of one sort or another. The principle was that, if we were going to take big money out of politics, we needed to address both of those simultaneously.

One practical reason was that we were conscious of the difficulties there would be in reaching agreement between the parties on doing this, not least in view of the history and the failed attempt brokered by Sir Hayden Phillips. It was quite clear that, if we were putting forward a set of proposals that had any chance of success, it was important that they looked to be reasonably fair in their effects on the major parties. Fortunately, on the basis of the evidence that we could collect, which was very limited—the figures were incomplete and you needed to predict changes in behaviour, which was very difficult—it looked as if, approaching the proposals as a package, the effects on at least the two main parties were of a similar order of magnitude. Therefore, neither of them would like it, but they might make compromises, if they thought that everybody was having to do so.

The second practical reason was that, even though some people do not like the idea, political parties are a public good, in the sense that if they did not exist we would have to create them in order to run our system of democracy in an effective way. If they are a public good, clearly they need to be funded up to some level. If we are cutting the main source of funds, funds have to be found from somewhere else. That is why we reluctantly came to the view that, in the absence of anything else—particularly since it was not a new principle—there should be some limited further assistance from public funds. We also said that you would need to look at this again in the light of experience, and we suggested a long lead-in period. If, at the end of that period, it appeared that no further subvention from public funds was necessary, that would be a consummation devoutly to be wished.

There were other elements of the package. The most important was that we thought it was entirely reasonable, if you were asking the public to agree to more subsidy from public funds, to ask the parties to cut their campaign expenditure, because it would be extremely irritating for people to see public funds going in and then appearing to be spent on what they might think of as unnecessary election posters. That would probably be symbolic, because at that stage none of the parties was spending up to the limit they could.

The second element of the package that is worth bringing to your attention is our suggestion for tax relief on small donations, on the analogy of gift aid, with the benefit of the relief going not to the donor but to the recipient. Again, that would probably be symbolic. HMRC told us that it did not think that gift aid had made any difference to the willingness of people to donate to charities. However, we thought, first, that a tax subsidy would be more acceptable to the public than a direct grant and, secondly, that it might in a small way give parties a greater incentive to go after additional membership. Despite what HMRC said, it might make people more willing to donate. That would be good for public engagement, which we thought was also a consequence to be wished.

It was a package, in that sense. You are quite right that if we were to look at it again, in the light of the figures now available, we might want to propose an even lower limit for campaign expenditure, although that is easily got around. We might want to suggest a number of different things, but we would not want to change the overall shape of the package. The additional public subsidy was not a point of principle. It was a residual, after everything else had been done.

Lord Richard: Sir Christopher, I am very interested in what you have just said. Broadly, you were telling us that in the package, which was meant to be a package, you wanted the pain to be evenly spread between the two parties—in the hope, I suppose, that each party would go away equally dissatisfied with your report but would nevertheless accept it. That was probably the strategy you were aiming at.

Sir Christopher Kelly: That is absolutely right.

Lord Richard: You say in your report on a number of occasions that you were trying to achieve a package that was “fair” and “reasonable”. If you looked at it again, presumably those would be exactly the principles that you would use to try to arrive at a fresh report, as opposed to your last one.

Sir Christopher Kelly: Indeed.

Lord Richard: There is no change in the idea of having a package, no change in the idea that it should be “fair” and “reasonable”, and no change in the idea of having an equal balance, as broadly as you can, in the pain between the two parties. Then, you would produce a package that you would hope everybody could accept.

Sir Christopher Kelly: Indeed.

Baroness Dean of Thornton-le-Fylde: Lord Bew, is that still the position?

Lord Bew: Yes. I have said a number of times that I would love to see consensus arrive on the issue. We are nowhere near it at the moment, to be honest. The only conceivable way you could achieve consensus would be if there was a perception that it was a fair and balanced report. That is the only possible route to that end. I agree completely with what Sir Christopher said.

Sir Christopher Kelly: Can I add two points? First, it would have been great if we could have achieved a rough balance between all three main parties. In practice, it was difficult to conceive of a system that did not work to the advantage of the Liberal Democrats, simply because they were not very good at raising money from other people and, therefore, their income looked grossly disproportionate to the number of votes they received.

Secondly, since this is germane to the subject of your inquiry, it seems to me that picking up only one element of the package is not just a missed opportunity but is likely to do further damage—I do not know whether Lord Bew agrees—in the sense that this is not politicians agreeing among themselves to put their house in order in relation to an issue that clearly worries a lot of people, as the surveys keep showing; instead, it looks like a partisan, cynical move that is likely, one would have thought, to bring the whole process into even greater disrepute.

Lord Bew: I understand that there is a manifesto commitment on the Conservative side that is prayed in aid of the current legislation. No committee of our sort is in a position to say, “Millions of people voted in a certain way, but we don’t care”. Having conceded that simple political reality, which everyone in the room accepts and understands, it is none the less absolutely true that the Committee on Standards says in its report, and still believes today, that if you are going to address this question properly you have to do so in a way that is fair and balanced across the terrain. There may be this or that detail in our report where time has moved on, but our report is based fundamentally on that philosophy. The committee is still in favour of that concept. To be absolutely honest, if we are talking about what electoral manifestos say, that was the underlying assumption in what the parties were saying. If there is a manifesto commitment related to this legislation—I understand that point—there is also a manifesto commitment by all the major parties to try to progress the issue. In that sense, I am absolutely for manifesto commitments that millions of people have voted for. The Committee on Standards is behind that manifesto commitment all the way and wants to benefit from it, if possible.

Q22 Lord Wrigglesworth: I declare my interest, as a member of the Liberal Democrats and, very appropriately, given the comments that have just been made, the national treasurer for the last four years, during which we raised over £20 million for the party and, consistently every quarter, more in individual donations than the Labour Party. That is quite an important point. The Labour Party relies very considerably on trade union funds. We consistently raise more in individual donations than the Labour Party.

My question relates to what is clearly the Achilles heel of your proposals: state funding. It may be premature, because you have not had the further discussions, but I wonder whether you have any further thoughts on how that might be overcome. I cannot see a time when political parties will be willing to go to the taxpayer and ask for money for their own organisations. Do you see any way round that stumbling block of a balanced package?

Sir Christopher Kelly: I would like to think that there was a way round. As I said, we conceived of it only as a residual. If people look at the figures again, it is quite possible that they will find that it is unnecessary. I do not know how we can do that until we put it into practice, because with a very different system in place, all sorts of behavioural changes could be expected. What was in the mind of the committee was that at the point of moving to the new system it would be necessary to have an additional public subsidy. However, the hope would be that, in combination with the other things, as time moved on we would find that it could be phased out.

Despite the fact that I was a civil servant for a long time, I still have some faith in rationality. In the report, we made a lot of play of the fact that at the time we were talking about something that was equivalent to the price of a first-class stamp per elector—a small amount relative to all the other public money already spent in this area. The other thing that we found when we had focus groups—with all the defects of focus groups—was that if you said to people, "Do you think more public money ought to be given to political parties?" of course they would say, "Not on your nelly". However, if you explained to them, "Do you think that this is a price worth paying in order to make it possible to take big money out of politics?" they would say, "Of course". If all three parties, particularly at the beginning of an electoral cycle, were to get together and decide that there should be an additional, relatively small amount of money of this kind, I do not think it would be impossible to ride the storm that would undoubtedly result. It is easy for me to say that, because I would not have to justify it to my electors.

Q23 Lord Sherbourne of Didsbury: Can I ask about the status of your report, compared with other reports that your committee produced in the past? When you have done other reports, have you sometimes had the parties say, "Yes, we accept the report"? How does that come to you? Presumably, some reports have the agreement of the parties. As I understand it, this report has had no acceptance. Is that correct?

Sir Christopher Kelly: It is a matter of deep regret that this is the first report by the committee that has not been accepted in large part.

Lord Sherbourne of Didsbury: Its status is that it has not been accepted by the parties—neither by the Labour Party, nor by the Conservative Party, nor by the Liberal Democrat party.

Sir Christopher Kelly: Absolutely not.

Lord Sherbourne of Didsbury: Its status is that nobody has accepted it.

Sir Christopher Kelly: Yes—up to now.

Q24 Earl of Kinnoull: Can I take you back to the balance of pain that you were describing? I assume that, while preparing a view of the balance of pain, you had some numbers on what the pain was going to be. I wonder what you had for the transition to the opt-in basis, using your mechanics, rather than the mechanics proposed in the Bill. Could you talk about that subject? We have heard a lot of numbers about what the pain might be. I would be very interested to hear your view.

Sir Christopher Kelly: The numbers we used are in the report. The only fair thing to say is that it would be quite wrong to put too much faith in any of them. In relation to the sizeable donations, we looked at what would have happened to what we knew about donations over the past period if the new rules had been in force. With the affiliation fees, all you can do is stick a finger in the air, because the question you have to ask yourself is: what would happen to behaviour? There is no basis on which to make an accurate prediction about what would happen to behaviour in those circumstances.

Lord Whitty: My question concerns that very point. We are focusing on Clause 10, which provides for an opt-in, rather than an opt-out. Sir Christopher, your report had an opt-in proposition that, whereas a donation from a trade union would be treated under the cap, the affiliation fees could be treated as a series of individual opt-in donations, were the rules of the Labour Party to change. That is different from the proposition we have here, which is an opt-in to the political fund, rather than to the affiliation.

Nevertheless, some things have moved on since your report appeared. Could you tell us two things? First, do you think that the rule changes that the Labour Party introduced meet your proposal for an opt-in to the affiliation fee? Secondly, did you calculate the effect of your proposition and, therefore, the post-Collins review rules of the Labour Party on the level of affiliation fee paid to the Labour Party? What you have just said indicates that you probably could not, but we are anxious to see whether we can make such a calculation. You make a calculation as to what the effect would be if affiliation fees remained the same and were excluded, but obviously they would not remain the same. Did you make any calculation as to what the effect, or the range of effects, would be?

Sir Christopher Kelly: The question we asked ourselves was: what would have to happen to the affiliation fees in order for it to be reasonable to regard them as simply a convenient way of collecting together individual contributions, in the same way as companies can collect together contributions to charity, through payroll deduction? I will probably forget some of the things on the list, but we thought that these were the most important ones. The first was that people should take a direct decision to make the contribution, which is where you get to opt in. The second was that, once they had made the contribution, it effectively became the property of the political party and was not in the ownership of the trade union. It followed from that that the trade union would not be able to decide how many members to affiliate; it would simply pass over the amount of affiliation fees that it collected.

We also suggested that there should be transparency over what had happened and finally—because people thought that this was very important—that it should be possible to continue to make a contribution to the political fund if you wanted to support the political activities of the trade union, while not paying an affiliation fee. I do not fully understand the changes that the Labour Party made, but I do not think that they match all those criteria.

As to the amount, the issue of equal pain could be addressed only in a by-and-large way. We had to say, “What is the likely range of impacts, both on affiliation fees and on donations from major donors on the other side?” The judgment about equal pain was very “by and large”. That is one reason why, having proposed a long lead-in, we suggested that a stocktake should be done at the point before implementation. People could then take a decision about where to set the parameters precisely, both on things like the limit on campaign spending and on the cap.

Lord Whitty: Could you indicate in which way the Collins review changes do not meet your criteria? After the transition period, it will be impossible for the Labour Party to pay affiliation fees for anybody who does not opt in to paying them, so I think it meets the main proposition. If there are other aspects, perhaps you could spell them out.

Sir Christopher Kelly: Certainly. Could I be permitted to do so afterwards?

Lord Whitty: In writing? Certainly.

Lord Callanan: Can I probe you further on an answer that you gave the Earl of Kinnoull a few moments ago? This Committee has been asked to look at the possible effect of the change from opt-out to opt-in on the finances of the Labour Party. If I heard you correctly—correct me if I am wrong—you said that you thought that it was impossible to say what the effect of changing from opt-out to opt-in might be. You just do not know. The words that you used were “stick a finger in the air”.

Sir Christopher Kelly: That was probably an exaggeration. It would be very difficult to do so accurately. You could suggest a fairly large range, which is the view that the committee took.

The Chairman: But you took it for granted that fewer people would opt in than are currently there.

Sir Christopher Kelly: Absolutely. It would depend on people’s own wishes, inertia and the arrangements that the different trade unions concerned made to make it easier, or to persuade people to pay their affiliation fees, all of which are variables that could change.

Lord Callanan: The reason I asked you that question was that the general secretary of the Labour Party came along to our meeting last week and told us—he managed to tell the *Times* at the same time—that the proposals would have the effect of a £9 million diminution in the finances of the Labour Party. You are saying that it is impossible to come up with a number like that.

Sir Christopher Kelly: He may have access to information that I do not have.

Lord Callanan: If he does, he did not share it with us.

Sir Christopher Kelly: Remember, the information that I have is five years old. He may have different information available.

Lord De Mauley: Sir Christopher, you have talked about the option that you considered—opting in to affiliation fees. Did you consider the slightly different issue of opting in to political funds?

Sir Christopher Kelly: No, we did not.

Q25 Baroness Dean of Thornton-le-Fylde: Good morning. I would like to ask Sir Christopher a question. It is about opt-in, but it is about your proposals on opt-in and what we as a Committee are considering at the moment. Could I hear your view on the concept of renewal of opt-in? Your report talks about opt-in as part of its package. The theme all the way through is fairness. The Bill says that individual members have to opt in in writing, either by letter or by delivering their notice—by no other means. They then have to renew that opt-in after five years, unless they actively notify the union—again in writing, I presume—three months before that five-year period is up. The rules mean that funding for all the administration of that would have to come out of the political fund. What is your view of that concept? Does it attack the proposals that you make in your package? Will it be fair?

Sir Christopher Kelly: We did not go into any detail on the nature of the arrangements, other than to say what principles we thought should be followed, because we did not think that was within our remit. We thought that, if the parties could agree, it was a practical matter to be sorted out by sensible negotiation. We did not address the issue of how the opt-in should be done, nor the period for which it should last. I notice that there are different periods around. As I understand it—correct me if I am wrong—the decision to have a political fund has to be renewed every 10 years.

Lord Whitty: Yes.

Sir Christopher Kelly: Quite a long time ago, the rules were changed in relation to donations from plcs, so that a plc could make a donation only if the shareholders voted in favour of it. I believe that the rule is that that vote lasts for four years, or whatever period is specified in the vote.

Baroness Dean of Thornton-le-Fylde: Would you accept that in this case we are dealing with unions that may have half a million members? The five-year period will be up at different times for most of those members, not all at the same time. If the Bill became an Act, they would all have to opt in, if they chose to, but as new members joined, the renewal dates would change. In your view, would that affect the fairness of what we are talking about, as between the parties?

Sir Christopher Kelly: Clearly, it would be a bureaucratic, resource-intensive thing to do. My committee did not take a view on that.

The Chairman: Earl of Kinnoull?

Earl of Kinnoull: My question has been very successfully covered by Baroness Dean.

Lord Richard: I want to dot an "i" and cross a "t". You were asked a number of questions about whether you could give a firm figure as to how much the Labour Party would lose from this. You cannot do anything with mathematical certainty on this, can you?

Sir Christopher Kelly: No.

Lord Richard: Do you have any doubt that it would have a detrimental effect on Labour Party finances?

Sir Christopher Kelly: No, of course not; absolutely.

Lord De Mauley: A moment ago you talked about the question of the 10-year period or a lesser period. There was a time when people worked for an employer for life. Do you think that has changed? If so, have you any idea how long people work for an employer, on average?

Sir Christopher Kelly: I imagine that it has changed. I have no idea what the current figure is.

Lord Robathan: Sir Christopher, you said that you have no doubt that this would have a detrimental effect on Labour Party funds. In your inquiry, did you find, therefore, that some people who were subscribing to the Labour Party through their union donation were probably doing it unwittingly or unwillingly? That is the implication of what you have just said.

Sir Christopher Kelly: Yes. As we mention in the report, we found that some trade unions at the time—I have no idea how this has changed—were less than fully transparent about what was happening to their affiliation fees. It follows from that that it would be surprising if there were not some members who were not aware that they were paying an affiliation fee. The effect would relate not just to that, but to all the other things you would expect, such as inertia about having to take a deliberate decision, rather than having one that happens—

Lord Robathan: A lack of keenness to donate.

Sir Christopher Kelly: That is a different way of describing the same thing.

Q26 Lord Robathan: I have a second, unrelated question. Since your report appeared, the world has moved on and, in particular, the political landscape has moved on. You now have a party in Scotland that almost certainly got fewer votes than the Liberal Democrats—I am not quite sure of the numbers—but has seven times the number of MPs the Liberal Democrats have. Has either of you received representations from the Scottish National Party or, indeed, from other parties—UKIP or whomsoever it might be?

Sir Christopher Kelly: I cannot remember whether at the time we received representations from the SNP. The list of people who gave evidence is at the back of the report. I have just checked it, and, yes, we did receive evidence from the SNP. Clearly, it did not leave a big impression in my mind. We had a chapter at the end about the other nations and the effect on them, because it seemed to us that in a number of respects the rules had not caught up with the fact of devolution.

The most interesting discussion we had was with the Co-operative Party, which woke up rather late to the fact that this could have implications for it and that special arrangements would need to be made for it. That was one of the points in Margaret Beckett's dissenting note. In retrospect, it is probably fair to say that we might have had rather more discussion about whether particular different arrangements were needed for the Co-operative Party. I fear that at the time I regarded that as a detail and that, if the major parties could sort out the main issues, there would then be some discussion about any special arrangements that were needed for the Co-operative Party or, indeed, any other of the smaller parties.

Q27 The Chairman: In his minority report, Oliver Heald commented that he thought that the modelling or data were not in a terribly good state for you to make some of the decisions and estimates that you made. Is that information in any better shape today? If one were to redo that exercise, would you feel that you were in a better position to do it?

Sir Christopher Kelly: I was asking Lord Bew that.

Lord Bew: That is why in recent days—partly because I had reread Oliver Heald's remarks—I have been calling in public for common accounting. No, it is not, to my knowledge.

The Chairman: It is no better.

Lord Bew: Interestingly, in reaction to what I said in blogs and elsewhere, people who are working in this field seem to be believe that it is no better.

To be fair to the SNP, may I come back to the previous question? I realise that I was slightly unfair earlier when talking about parties' reaction. The SNP did respond to my letter after the general election. It pointed out that it was excluded from the previous round of talks and that it stands ready to participate if the two main political parties decide to advance a discussion in this area. In relation to the previous question, it is only fair to the SNP to say that it responded in that fashion.

Earl of Kinnoull: Lord Bew, we have just heard from Sir Christopher, in answer to both Lord Callanan and Baroness Dean, that the methodology for opt-in will affect the percentage of success—or not—of opt-in, which I assume was the evidence when Sir Christopher was in charge. Do you agree with that?

Lord Bew: What Sir Christopher says sounds entirely reasonable to me. The world has moved on in five years, but not quite that much, on that particular point.

Lord Tyler: I do not know whether I am putting words in your mouths, but you both seem to be saying that, although five years have elapsed, there is nothing you can see in the current situation that takes you away from the major principle conclusions of your report five years ago: you felt that this was a wide area of concern to the public, it needed addressing and it could not be addressed on a unilateral basis. If I may say so, you seem to be agreeing with the majority in your Lordships' House a few weeks ago. Would that be a fair summary?

Sir Christopher Kelly: I am very happy to have those words put in my mouth. I would add only that it is important to produce a result. We should not allow difficulties with the figures to get in the way of addressing a major issue as far as the public are concerned—the distrust that makes it impossible for people to believe that there is no connection between big donations, whether they come from trade unions or from individuals, and subsequent action. That is a major issue that needs to be dealt with. Allowing uncertainties about the figures to get in the way is just a way of kicking it into the long grass.

Changes of this kind need to be sustainable. We do not need to get into the situation with opting in and opting out in the past, when, as different Governments came into power, they switched from one thing to another. Surely, we need to address this in a way that is sustainable and will last.

Lord Bew: Can I add a gloss to what Sir Christopher said? It is absolutely true. If we are going to address the question of party funding, it should be addressed across the terrain. I would like to add one more thing, for any work that the Committee does. I think it has to be said. While everybody accepts that in certain respects there are figures that have to be looked at again—that more figures are required and so on—I do not rule out the possibility that, in a discussion, ideas and concepts may come in. If the parties agree to concepts that are not there, Sir Christopher will have no objection. One is not simply saying, "You must absolutely accept our conceptual framework. The only thing we are willing to talk about is that we know there are issues with some of the numbers and that the world has changed in certain ways". It would be very unwise for us to do that. There may well be other concepts or new approaches. What we really want is consensual agreement. We want to be a party to that, rather than to fetishise any detail or idea in the 2011 report.

Sir Christopher Kelly: Absolutely.

Lord Wrigglesworth: I wonder whether either of our witnesses this morning has come across any evidence of pressure from organisations or individuals for the sort of changes we are looking at in the Bill at the moment.

Sir Christopher Kelly: No, I have not, but I would not.

Lord Bew: Have we received any pressure?

Lord Wrigglesworth: No—are you aware of any pressure?

Lord Bew: Absolutely not. It was essential, especially when Lord Tyler's Motion was put before the House and the later Motion then came forward, for us to make clear our position. If that is pressure, so be it. Apart from that, there has been absolutely none.

One thing that has to be said is that the Government are not claiming to be implementing one part of our report. We had an understandable concern, going back over quite a period of time, that things might come before this Parliament that would claim to cherry-pick from our report. It is entirely right to say that the view of the Committee on Standards in Public Life is that this should be dealt with across the terrain, in a way that aims for fairness to all parties.

That is and remains our view. However, there has been no pressure, simply because the Government are not asking us to say, “That is what we really meant”, or anything like that. It is what they mean. That is where we stand.

Q28 Lord Whitty: You both said that the information available to you in 2011 and now was not sufficient for various purposes. The Electoral Commission publishes a huge amount of information on donations. There are requirements on the unions to make submissions to the certification officer, whom we are about to see. Are there any specific forms of information that you think should be in the public arena that currently are not? You may write in about this, if you would prefer.

Sir Christopher Kelly: I do not know how things have moved on since 2011. In 2011 we discovered that there was no standard accounting practice between the accounts of the different parties. It was therefore difficult to compare the accounts of the different parties at that point. The Electoral Commission had been discussing with the parties a set of common standards. There are difficulties, because the parties have different constitutions—for example, the Liberal Democrat party is a more federal party—so funds are recorded in different ways. My understanding is that not all parties have yet signed up to the common methods of reporting, but I stand to be corrected on that. The second deficiency in the data was simply that the Electoral Commission only publishes donations above a certain level. Information about donations below that level was available only from the party accounts.

Q29 Lord Robathan: One thing in your report with which I agreed entirely—I should say that I did not agree entirely with everything—was that the amount of money that can be spent on political campaigning should be reduced. My own view is that a huge amount of money that is spent on political campaigning is completely wasted. Conservative spending in the 1997 election, when we lost appallingly, having outspent everybody else, was a particular example of that. In your investigations for the report, did you receive any evidence that a lot of spending was regarded as, and was indeed, nugatory?

Sir Christopher Kelly: First, there was the factual evidence that said that the limits were not biting. As I recall, at one point the then treasurer of the Conservative Party told us that they had bitten on him, but the figures did not support that contention. There was quite a gap between what the limits were and what was actually spent. That may have changed since 2011. We have received plenty of anecdotal evidence from people who say exactly what you have just said—that a lot of this is wasted. Please tell me which bit of it is wasted, so that I can start working through it.

Lord Robathan: I will give you half an hour, if you want.

The Chairman: I am reminded that there was a very famous actor who said, "Half of all advertising is wasted. The only problem is that we do not know which half".

Sir Christopher Kelly: Exactly. That is what I meant.

The Chairman: We must wrap up now. Thinking back to your time as a financial ombudsman and what you saw of financial services, if one accepts the arguments that you have made about the balance of funding, do you think that inherently, there is a good case to be made for opting in, rather than opting out, when it comes to people making commitments to all manner of things?

Sir Christopher Kelly: Yes, I do, recognising the point that Baroness Dean made—that it is more complicated administratively. One hopes that, in the age of current IT, that becomes much easier than it might have been some years ago.

Lord Richard: If you are allowed to use it.

Q30 Baroness Drake: First, can I declare my interests, as a Labour peer and a member of the CWU? Sir Christopher, you laid out very clearly the two strands of reasoning for the package—the reason based on principle and the pragmatic reason. Could I ask for your views on how the opt-in requirements for unions compare with what other organisations are required to do if they make donations to political parties? If this change is implemented, what does it mean, in your view, when looking at other organisations?

Sir Christopher Kelly: I am not sure what other organisations you mean. Plcs have to put it to a vote of their shareholders, so in that case a deliberate decision is taken to donate. For third-party organisation donations, the rules are very similar to the rules for individual donations. With individual donations, by definition, everyone takes a deliberate decision to donate. When we looked at what would be necessary to conclude that it would be reasonable to regard affiliation fees as simply a collection of individual contributions, the fact that people were taking a deliberate decision that their affiliation fee be used in that way was the most important principle.

Lord Whitty: Let us focus on the plcs. Would you accept that, although there is a requirement for a vote on the largest companies, there is no requirement on those companies to have a separate political fund and no obligation to provide for an opt-out—or, indeed, an opt-in—for individual or collective shareholders?

Sir Christopher Kelly: That is true. Of course, donations from plcs have almost completely disappeared now.

Lord Whitty: Indeed, but not from private companies, of course.

Sir Christopher Kelly: We had a large section on private companies and made a number of suggestions about the way the arrangements there could be tidied up, so that they were not used as a way of disguising donations from individuals.

The Chairman: Lord Bew, Sir Christopher, thank you very much.