



HOUSE OF LORDS

Revised transcript of evidence taken before

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

Inquiry on

TRADE UNION POLITICAL FUNDS AND PARTY POLITICAL FUNDING

Evidence Session No. 10

Heard in Public

Questions 75 - 79

THURSDAY 11 FEBRUARY 2016

12.30 pm

Witness: Leighton Andrews AM

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 Whitty
 Lord Wrigglesworth

Examination of Witness

Leighton Andrews AM, Minister for Public Services, Welsh Government (via video link)

Q75 The Chairman: Mr Andrews, can you hear me?

Leighton Andrews AM: I can hear you, Lord Burns.

The Chairman: Thank you very much. It may seem on your screen that there are only three of us here, but in fact a good number of us are gathered around the table. Thank you very much for speaking to us. Would you like to make an introductory statement?

Leighton Andrews AM: I would just say thank you for inviting us to give evidence. Perhaps I may give you a flavour of the context of the Bill as it is seen in Wales. We as a Government believe that the Bill is damaging, that it is divisive, that it risks undermining public services and the economy, and that it raises serious constitutional issues. The UK Government believe that the Trade Union Bill relates to employment and industrial relations issues, which are not devolved. The Welsh Government are clear that that is not the case, and indeed the leaked letter from the BIS Minister Nick Boles to Oliver Letwin and Chris Grayling published earlier this week demonstrates that the UK Government's lawyers agree with us. I do not know whether that leaked letter has been entered into evidence to your Committee, but it is certainly worth reading.

The National Assembly for Wales voted against a legislative consent Motion to allow the UK Government to legislate on our behalf on Clauses 3, 12, 13 and 14, but all the clauses in the Bill will impact on Wales, including those we are discussing today, Clauses 10 and 11. I should also say that three of the four political parties in the National Assembly, the Labour

Party, the Liberal Democrats and Plaid Cymru voted against these clauses. I cannot speak for the Scottish Government, of course, but it is a matter of public record that I have regular conversations with my counterpart in the Scottish Government, and they also oppose the Bill.

The clauses that the Committee is considering will have a significant impact on Labour Party finances, reducing Labour Party income by up to £8 million a year. There are specific issues with these clauses. The first is the unrealistic timescale. Unions will have just three months to re-recruit their members, which is clearly an enormous administrative task, and they will have to do that every five years. In contrast, the Committee on Standards in Public Life noted in 2011 the need for a proper transition period of four years. Secondly, we do not consider that we have had a full explanation of the impact of these clauses. The impact assessment states that there will be no change to the number of members contributing to political funds because of the Bill. We dispute that. Experience from Northern Ireland and the Committee on Standards in Public Life suggests that there will be a significant reduction in the numbers affiliating.

Even if these two key issues are addressed, the clauses are still fundamentally unfair. This Bill is party funding legislation through the back door. It will have a significant impact on the Labour Party in Wales as well as throughout the UK while not addressing the significant issue of broader party funding such as donation caps or spending limits. We believe that the Government are going against the Churchill convention, which is the long-standing consensus that the party of government should not abuse its power by forcing changes on other parties without their agreement.

Overall, we believe that the Bill is unfair, flawed and should not be pursued.

The Chairman: Thank you very much. Are you able to tell us what the main sources of political party funding are in Wales?

Leighton Andrews AM: There is a variety of sources, which are probably common across the UK: individual donations, corporate donations, sponsorship from various sources, legacies, and a variety of fundraising activities both large and small. That is as common in Wales as it is in the rest of the UK, and that means of course that Wales is not isolated from the impact of the Trade Union Bill as trade union contributions are automatic here in Wales.

The Chairman: Thank you very much. Lord Whitty.

Q76 Lord Whitty: Would you say that there is any noticeable difference in the impact on political parties in Wales? Is it any different from the rest of the United Kingdom? Also, if we move to an opt-in system, do you have any views about the level of take-up that there would be by trade union members in Wales? After all, Wales has been a traditionally Labour area. Would you expect to see a slightly higher take-up than in Great Britain as a whole?

Leighton Andrews AM: I think it is fair to say that it is not only the Labour Party in Wales that has had trade union donations, but it would impose something of a double whammy on the Labour Party in Wales. First, trade unions do not have the same level of resources at the devolved level in order to organise members to opt in; and, secondly, if affiliations going to the Labour Party at the UK level were to fall significantly, that would have a proportionately negative impact on the funds distributed to Welsh Labour. We think that this will have an impact on devolved democracy.

I know that some have argued that if there was a drop in the numbers affiliating because of opt-in, unions could simply increase the size of their affiliations or donations. But if the total size of the political funds of the affiliated unions were to drop from over £20 million, as it was in 2014, to £2 million or £3 million, they simply would not be able to increase their affiliations to cover that overall loss. The overall loss is estimated to be around £8 million for the Labour Party. We work with colleagues in other parts of the United Kingdom in UK general elections, and in other campaigns of course, so it will have an impact on us here in Wales.

Q77 Lord Richard: Mr Andrews, good morning. Is there any case for moving to an opt-in system for trade union political funds, either now or in the future?

Leighton Andrews AM: The issue really is that the clauses are designed to cut off trade union financial support for the Labour Party. As the law will be backdated, it will affect 5 million current members in union political funds, and you will have their next contributions. I would argue that trade union members already enjoy what might be called a triple lock of protection on political funds. First, each member can opt in or opt out at any time. Secondly, union members all get to vote every 10 years on whether their union should have a political fund. Thirdly, unions can choose democratically to disaffiliate from the Labour Party, and indeed some have done so. It is perhaps worth stating that there are 52 trades unions in the UK and only 13 of them affiliate to the Labour Party. Some are involved with and donate to

other political parties, and we have seen that in Wales. From our point of view, this comes on the back of the attack on Short money to opposition parties, and we regard this as a vindictive measure. We know that about 10% of union members in Labour affiliated unions already opt out of the political fund, so we believe that union members are already protected.

Lord Richard: Have you had any views on the details of the opt-in scheme that is proposed in Clause 10? Is that a workable way of doing it?

Leighton Andrews AM: As the law will be backdated, the state is essentially changing a lawful membership contract agreed by two freely contracting parties, the union and the individual. First, it was our understanding that, according to the Solicitor-General, retrospective legislation should be introduced only where there is a clear public interest in doing so and where the proposed change does not contravene human rights. Given that there have been no complaints to the certification officer in the last 20 years, it is difficult to see how the public interest is being served. Certainly if this change were to go through, we do not believe it should be retrospective and that it should apply only to new members.

Secondly, unions will of course have only three months in which to re-recruit members. Every member will be sent a form and will have to fill it in and send it back. We know that standard response rates to direct mail can be as low as 2%. This will also have to be done every five years. No reasonable transition time is allowed for in the Bill; three months is inadequate. Thirdly, unions will have to re-recruit in writing. It seems odd that in an electronic era that business should be conducted only through pen and paper.

There is also a question about whether someone might support paying into a political fund but not the collective affiliation to the Labour Party. I know that has been raised, but it entirely misses the point, since the in/out, opt-in/opt-out question does not resolve that. In fact it has already been addressed by the Labour Party with the reforms introduced under Collins, where each individual political levy payer must consent to their share of the collective affiliation. There are serious practical problems with these clauses as well as issues of principle.

Lord Richard: Thank you very much.

Q78 Earl of Kinnoull: Good afternoon, Mr Andrews. What do you think the future holds for the reform of party political funding if Clauses 10 and 11 are passed as is, and in the absence therefore of a wider package of reforms?

Leighton Andrews AM: It is very clear that we are not moving forward on the reform of political finance in a balanced way. This is a partisan, sectarian, vindictive and malicious measure. It has always been held that no legislative change that has a major impact on an individual political party should be introduced without all-party consensus. We believe that this is a major deliberate assault on the funding of the Labour Party and that there is no consensus. Certainly we as a Government wish to see party funding being considered in the round. The backdating proposals are particularly pernicious. Perhaps I may repeat, since I have this opportunity before your Lordships, that we believe that there are other significant areas of the Bill that breach the devolution settlement, as indeed the UK Government's own lawyers seem to be aware.

Lord Wrigglesworth: I wonder if I might pursue that a bit, because I am unclear what aspects of this you feel should be devolved. Could you say a bit about that?

Leighton Andrews AM: The issues that are of concern to us are the specific areas of the Bill that relate to public services and the provision for strikes in public services, the issues of check-in and facility time. On that, the National Assembly, supported as I have said by three political parties, has been very clear. The leaked letter from the BIS Minister Nick Boles makes it clear that the Treasury Solicitor believes that the UK Government have "a very weak case" in relation to Wales on these issues. We have very good relations with the public service trade unions. There was no junior doctors' strike in Wales yesterday, although there was a strike in England. Given that public services such as education, health, fire and rescue are devolved to Wales, it should be for the Welsh Government to set the terms of industrial relations in those areas, and clearly we believe that we have the legal powers to do so.

Lord Wrigglesworth: But on the aspects of political funding and the political funds of trade unions, which this Committee is considering, are there any aspects of that which you feel should be devolved?

Leighton Andrews AM: At present, political financing is a non-devolved issue. Electoral arrangements are still not devolved, although there are plans to change that. Certainly at

this stage we would say, in the context that overall electoral arrangements are not devolved, that we are not seeking the immediate devolution of the laws relating to political financing.

Q79 Baroness Dean of Thornton-le-Fylde: Good afternoon. You have made a wide-ranging statement, which is helpful. We do not have a copy of the letter that you referred to, but hopefully we will get one. If Clauses 10 and 11 are passed in the absence of a wider package on party funding, what is your opinion for the future?

Leighton Andrews AM: I think it will lead to an unbalanced situation in relation to political funding overall. We would very much welcome a discussion on a proper analysis of political funding arrangements that is not conducted on a partisan basis. If you are going to look at trade union funding issues you need to look at corporate funding issues as well, and we would certainly be prepared to take part in that. But the outcome of these arrangements will be unbalanced. We would obviously be happy to make available to you the leaked letter, but it is in the public domain and I am sure that you will have access to it.

Baroness Dean of Thornton-le-Fylde: It is being indicated that we have a copy here.

The Chairman: Thank you. We will circulate it after this meeting. Are there any other questions? Mr Andrews, would you like to say by way of closing remarks anything that you have not had an opportunity to put to us so far?

Leighton Andrews AM: I think that I have covered everything, Lord Burns. Thank you.

The Chairman: Thank you very much for making yourself available. I am sorry that we were a little late, but we have had a busy morning.