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## **Business Financing of Politics in Ireland: Theory, Evidence and Reform**

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## **Business Financing of Politics in Ireland: Theory, Evidence and Reform**

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This article takes a new perspective on business and politics in Ireland from the comparative literature on business financing of politics. It introduces a theoretical language based on the concepts of ideological and pragmatic donations and discrete and reciprocal exchange. It goes on to discuss the extent to which the Irish political system generates incentives for these types of behaviour. Its empirical core is a quantitative analysis of disclosed donations to TDs between 2002 and 2009, but it also exploits anecdotal and official sources. This study concludes that there has been considerable scope for the exchange of brokerage services in reciprocation for small disclosed donations. Current reform proposals will reduce but not eliminate this potential, especially if there is no enumeration of commercial payments and loans received by politicians and parties.

**Keywords:** political finance, business-government relations, interest groups, Ireland, corruption

## **Introduction**

A stimulating combination of theory and anecdote has dominated corruption studies in Ireland (Byrne, 2007; Collins and O'Shea, 2000; Murphy, 2000). This article aims to open up a new perspective on many of the same issues, by taking a different theoretical and methodological approach. Theoretically, it looks to the comparative literature on business funding of politics. Hitherto, studies of Irish business and politics have tended to emphasise social partnership (Hardiman, 1998), industrial policy (Ó'Riain, 2000), corruption, or regulation (Murphy, Hogan, and Chari, 2011). Instead of highlighting the legal or moral status of behaviour, this article analyses the costs and benefits of possible exchanges and the source, timing, and recipient of reported donations. In doing so, it can draw some rough inferences about the intention behind payments to Irish politicians and parties. Like their counterparts elsewhere, Irish corruption studies tend to select on a very partially observed dependent variable. Again like corruption research more generally, Irish corruption studies often conceptualize independent variables at the systemic level, and therefore country case studies can also suffer from a lack of variation in their independent variables. Studying business donations to politics encounters many of the same problems, but in a less severe form. In particular, it is possible to look at TDs who did not receive donations and TDs in and out of governing parties and the cabinet. This is the basic way in which the different intentions behind reported payments can be inferred. Thus, this article hopes to provide a useful complement to existing studies of business and politics in Ireland.

The article begins by introducing the theoretical language of motivation and exchange that underpins the analysis. Next is an analysis of the costs and benefits of different

types of exchange between Irish businesses and politicians. It is followed by a consideration of disclosed and undisclosed donations, concentrating on a quantitative analysis of donations reported by TDs. The penultimate section applies the theory and evidence of this article to reforms proposed by the Moriarty Tribunal and the current government. The conclusion summarises the article's contribution to the literature on Irish politics and its implications for Irish public policy.

### **Motivations and Exchanges**

Business contributions to political parties can be conceived in terms of two general motivations: ideological and pragmatic. Ideological contributions are intended to support a particular political vision. Usually, the donor and donee will share political values, but the donor may wish to use her money to nudge the donee in a certain direction. Ideological contributions are not likely to survive a cost-benefit analysis because, whatever the possible benefits, it is rational to free ride on the contributions of other businesses to the long-term class-wide interest (Olson, 1971). Ideological contributions are made regardless of whether any specific benefits will accrue to the contributing firm. By contrast, pragmatic contributions are essentially business decisions, taken with the firm's usual profit-seeking motive. The distribution of pragmatic donations should follow short-term changes in the power and popularity of parties.

In many countries, pragmatic donations to parties occur in the context of low corruption. In this situation, discrete exchanges such as the purchase of policy, or even the purchase of access to decision-makers, incur too high a reputational cost on

politicians. Instead, donations form part of a reciprocal exchange. A discrete exchange is explicit and simultaneous. By contrast, in a reciprocal exchange, each actor's part of the exchange is separately performed and the terms are unstated and uncertain (Molm, 2000: 261-2). They help to develop and maintain a relationship with politicians, which may, in due course, produce a small but real increase in the probability of successful lobbying (Clawson, Neustadtl and Weller 1998; Gordon 2005).

These two forms of pragmatism should be associated with different strategies. A firm that moves its money from right to left, as power shifts from right to left, is seeking a discrete exchange. A pragmatic firm that funds parties, whether or not they are in government, is betting on a reciprocal exchange. A party that values a steady income stream, and that values income when it is most needed, has good reason to reciprocate. Moreover, discrete exchanges should be associated with larger payments than reciprocal exchanges. Reciprocal exchanges have lower potential publicity costs. Since they are not simultaneous the payment and the policy benefit are less likely to be associated with each other by those outside the exchange. Even if they are, the absence of simultaneity makes for plausible deniability. Also, the value of contributions associated with reciprocal exchange is an accumulation of past and expected future payments. Finally, payments received in opposition have a greater value, euro for euro, than payments received while in government.

Social factors also play an important part in business financing of political parties (Bond 2007). However, this can be seen as a mechanism of ideological or pragmatic giving. Reciprocal donations aim to generate a sense of mutual obligation between

firms and politicians. Ideally, donations provide the opportunity for business representatives to meet decision-makers and their brokers. The social occasions serves an economic purpose – the development of a political network for the firm. Networks are also important in understanding ideological donations, but in this case the network precedes the donation. Many people are socialised into a close relationship with a particular party. In the Irish context, it is common to hear, for example, of a “Fianna Fáil family”.

Businesses and businesspeople are likely to be differently motivated in making financial contributions to political parties (Burris, 2001). Individuals are more likely to make ideological contributions. In contrast to firms, they do not have to justify their decision to shareholders. Individuals can use cash generated by business activities to further their political values as opposed to their business interests. Of course, rich individuals are also interested in getting richer and may also be motivated pragmatically. Individuals are particularly likely to be influenced by social position. It is they who actually grew up in certain families, went to certain schools, frequent certain clubs and sit on certain boards.

Political economies vary in the extent to which they impose costs and generate benefits for different types of political exchanges. The next section reviews the potential costs and benefits of business funding of politics in Ireland. Countries also vary in the extent, and way, in which they offer an ideological choice. This will be briefly considered in the next section too.

## **Costs and Benefits of Business Financing of Politics in Ireland**

Ireland is a famous exception to the clear left-right structuring of most Western party systems (Carty, 1981: 110; Mair and Weeks 2005, 136). While social and ideological patterns are discernable, they are subtle and ephemeral compared with those in other established democracies. Fianna Fáil is sometimes regarded as the natural party of business, but this seems to be because it has also been the natural party of government. The absence of a major ideological difference between the two main parties, and indeed any major difference about the role of business in society, or even the role of property in the economy, is a reason to doubt that businesses were somehow more supportive of Fianna Fáil than donors in general. Fianna Fáil as the “party of business” is much more problematic and mysterious idea than explaining business funding of the UK Conservatives, Australian Liberals or US Republicans, as all these other parties have a clearly more pro-business tradition and policy profile than their main competitors.

The extent to which politicians can provide private goods to donors depends on the extent to which public policy is framed in public or private goods and the extent to which decisions on private goods are controlled by politicians. For example, recent reports suggest Irish corporate tax policy creates public goods for business (RTÉ, 2011b), in contrast to the private goods created by the multiple exceptions and schemes in France. Even when the state provides private goods, decision-making is often well insulated from politics: Enterprise Ireland provides a wide range of private goods, but is generally outside political control. Its sister organization, IDA Ireland, is also regarded as impressively independent, but, on occasion, has been unable to resist political interference in particular decisions, such as export credit insurance for

Goodman International (O'Toole, 1995: 116-133). The granting of the second mobile phone licence was designed to be insulated from politics, but Moriarty argues that Michael Lowry managed to interfere in the decision (Moriarty, 2011). Official thinking could clearly go further in moving away from the production of private goods, as the recent discussion of a casino licence illustrates. In Ireland, private goods can only be delivered via the executive. In some areas at least, ministers had no compunction about using government money to distribute targeted benefits for political gain (Suiter and O'Malley, 2011). The cabinet also dominates the legislative process and ministers can target laws to benefit particular interests, as Ray Burke tried to do on behalf of Century Radio (Flood 2002a, 62). Legislators have little or no ability to append particularistic benefits to laws. This is very different to the potential for individual legislators to add "earmarks" to bills in the US Congress (Clawson, Neustadt and Weller, 1998, 68-71; Center for Responsive Politics 2011b) or to sponsor "leggi" in committees of the Italian legislature (Ginsborg, 2003: 141). In this respect, Ireland is probably rather typical of parliamentary democracies. However, even where power is tightly centralised in a cabinet, legislators and unelected political actors can act as brokers between donors and key decision-makers, as Australian and Canadian experience illustrates. The term brokerage is central to research on constituency service and clientelism in Ireland. It can also work in the opposite direction. Minister Ray Burke received a large 'corrupt payment' to use his 'influence' with local councillors (Flood, 2002a: 75). There is a continuing controversy, perhaps underpinned by deliberate political and administrative ambiguity, as to whether political brokerage can influence decisions, pretends to influence decisions, or merely provides information. At any rate, there is

considerable potential for public representatives to act as brokers for the private goods of business donors.

Some areas of public policy and business are harder to deal with in terms of public goods than others (Stigler, 1971). The obvious example is property development, which always involves public decisions that can make or break individual firms. For this reason, it is a source of controversy and corruption in virtually every country. This has been a major source of scandal in Ireland over recent decades and from 2000 onwards also accounted for an unusually large proportion of economic activity. Political parties, and their elected national representatives, have no direct role in planning permission. Councillors can have a role in passing and amending plans for their area and have sold their votes for small amounts of money (McDonagh and Black, 2002). In contrast to all categories of elected politician, local authority bureaucrats have had the capacity to deliver decisions (Flood 2002b: 5, 19). For at least some TDs, requests for help with commercial planning permission seem to have been very common (O’Leary, 2011: 335). Since TDs have no direct role in planning permission, this was also a brokerage service. In so far as TDs could try to lobby on these issues they had to do so very subtly. For example, in the past, TDs letters could be appended to the file sent to a planning inspector to decide on permission. This practice is no longer allowed. Since developments can have a large effect on local economies, TDs may have seen their interventions in the planning process as part of their role as “local promoter” (O’Leary, 2011: 337), rather than a favour for donor interests. A controversy has arisen recently over enquiries made by former taoiseach, Bertie Ahern, in relation to a planning application made in his constituency by Fianna Fáil donors, Ballymore Properties. The developer and Mr Ahern’s office seemed to

suggest that the enquiry was made on behalf of constituents, not the developer (Melia, 2011). Nevertheless, requests for help with planning permission were rare compared to queries on personal issues such as housing and social welfare (O’Leary, 2011: 336). At any rate, Irish businesses could see some potential for obtaining lucrative decisions from politicians. Associations with politics can be costly for some firms with sensitive brands or a large consumer market. Such costs were low for those in the property sector and prominent brands have not been among the recent donors to Irish parties and politicians.

Publicity costs are obviously much higher for politicians. In a democracy, votes, not euros, should count. Politicians will want to avoid the perception that they are beholden to a particular donor; the perception that they are beholden to a particular sector of business; and, indeed, to the business community in general. The evidence on the cost of corruption scandals to Irish politicians is mixed. Corruption scandals do not necessarily destroy a TD’s electability, as the case of Michael Lowry spectacularly illustrates. Charles Haughey thrived as taoiseach in spite of a plethora of rumours and a sleazy reputation amongst a large proportion of the electorate. However, ministers and taoisigh, like Ray Burke and Bertie Ahern, who are unable to rebut specific allegations, find it hard to remain in office. It is much more difficult to assess the cost for parties. At the very least, it can be observed that Fianna Fáil has been Ireland’s most successful political party and the party that has had to endure the most corruption scandals. Like other parties, when necessary, it has been quite successful at distinguishing politicians, and even the party leader, from the party itself. However, all these celebrated cases are from the era before disclosure. Legal disclosure increases costs in three different ways: disclosed donations are more public

than undisclosed donations; legal evasion of disclosure increases the costs if the donations are later discovered; and illegal non-disclosure raises costs yet further. The introduction of disclosure in 2002 increased all such publicity costs for politicians. The gradual emergence of widespread access to the internet has increased costs even more.

Benoit and Marsh (2008) show that expenditure can increase the chances of election. However, the large number of TDs not partaking in fundraising suggests many did not accept that expenditure made an important contribution to election campaigns. In contrast to, for example, Australia and the US, Irish politicians cannot buy time on the broadcast media, so donations are less beneficial. Moreover, the importance of local issues and small size of electoral quotas mean that a determined individual with a small team of helpers can be electorally competitive. Regulation can reduce the benefit of donations, by substituting public funds and by banning or limiting certain types of donations. The international evidence on whether public funding replaces donations is rather mixed (Casas-Zamora, 2005: 39; Nassmacher, 2010: 265-269). Since 1998 Irish politicians have had access to substantial public funding, which has dwarfed reported donations in all years since disclosure of, and limits on, donations were introduced in 2002. Disclosure and limits have reduced the potential for discrete exchanges between politicians and business. In 2002, the threshold for disclosure of donations from any one source per annum to a TD was €634.87 and the maximum allowable from any one source per annum to a TD was €2,539.48. There was no limit as to how much a TD could receive, but there were limits on campaign expenditure ranging from €25,394.76 in a three-seat constituency up to €38,092.14 for a five-seater. A similar scheme applied to parties. The limit for donations from one source

in a calendar year was €6348.49 in 2002 and the threshold for reporting annual donations was €5,079 in 2006. The parties were subject to limits that they and their candidates could spend per candidate during elections. In 2002, Fianna Fáil was limited to €3,428,293 on the general election, Fine Gael €2,755,331 and Labour €1,479,245. All limits are adjusted to the Consumer Price Index and have risen in subsequent years. These regulatory changes have increased the cost, and reduced the benefit, of discrete exchanges relative to reciprocal exchanges. Reciprocal exchanges became important in Australia and Canada (until 2004) in the aftermath of disclosure. Reciprocal exchange is also important in the US, where there are limits as well as disclosure. Reciprocity was probably the logic behind Fianna Fáil's Galway Races Tent (Ross, 2009: 112-117) and Fine Gael's golf classics. It is important to remember that TDs and parties face different incentives. The local focus of their campaign means that TDs should receive a lower benefit, but also incur a lower publicity cost, from donations. Parties need money to project their party image across the country as whole, and the more intense attention of the national media threatens higher publicity costs.

### **Donations: disclosed and undisclosed**

The Standards in Public Office Commission (SIPO) has been publishing details of donations since 2002. Table 1 shows donations reported by the three largest parties from 2002 to 2009 and the amounts of public funding they received. For Fianna Fáil public funding ranges from 4.4 (in 2002) to 138 times (in 2009). Fine Gael's numbers range from 15 in 2007 to infinity in 2003 when the party reported no donations. Labour's minimum was 10.6 in 2002 and its maximum was 503 in 2009.

[Table 1 about here]

The most obvious feature of this table is the absence of donations to the Fine Gael party. As leader, Michael Noonan announced that the party would no longer accept corporate donations. However, after the disaster of the 2002 election, this decision was, somewhat surreptitiously, reversed. Fine Gael seems to have pursued a policy of only accepting donations below the threshold, which was over five thousand euro. Therefore, the official data on donations to parties is seriously misleading. The scale of this fundraising is not at all clear. However, in 2010 Fine Gael is supposed to have raised €1.2 m from a lottery for ‘members’, which was alleged to have been targeted at corporate donors. If this is correct, business funding must have accounted for a considerable portion of the party’s income (O’Farrell, 2011). The problem of unreported donations below the threshold is much less substantial for TDs as the threshold is under €650. While parties may have the resources to concentrate on rounding up donations of just over €5,000, individual TDs may not have the time or the staff to concentrate on donations of under €600. Also, the publicity costs for TDs are much lower. The media can follow reported donations relatively assiduously for a handful of parties, but there were 166 TDs, many of them with a very low profile nationally. Indeed, all parties reported a greater value of donations to TDs than to parties. This difference in threshold and reporting is a major reason to focus analysis on donations to TDs. Another reason is the greater variation in power. Parties are divided between government and opposition; TDs are divided not just between government and opposition, but also between ministers and non-ministers. Therefore, there is greater variation with which to test for pragmatism. The data on donations to TDs should be biased against a finding of pragmatism, as larger corporate donations

may be made to the parties without disclosure. However, some media reports suggest Fine Gael was particularly cynical in collecting corporate donations below the threshold. This suggests a bias in the figures towards pragmatism as Fine Gael was in opposition for the whole period under examination. These two effects may have cancelled each other out.

57 per cent of the TDs that served from 2002 to 2009 reported at least one donation. For those reporting donations, the mean annual total was €5,908.<sup>1</sup> Fianna Fáil TDs raised the most money. Ivor Callely reported the highest annual total of €69,600; followed by Eoin Ryan with €42,950 in 2004; and Martin Cullen with €34,722 in 2002. Eoin Ryan was a successful candidate for the European Parliament in 2004 and this is surely part of the explanation for the large amount of money he raised in that year. The highest non-Fianna Fáil figure was €24,900 for Jackie Healy Rae in 2004. Evidently, some TDs perceived a benefit in raising much more money than could be spent during the official election campaign period.

It is much more common for businesses, as opposed to individuals, to donate to politicians in order to influence decision-making. The SIPO returns include a classification of the donor. Those identified as “company”, “businessperson”, or an individual with a business address<sup>2</sup> have been coded as business donations. 58 per cent of those reporting donations also reported at least one business donation. Eoin Ryan’s €31,100 in 2004 was the highest annual total of business donations followed by Fianna Fáil colleagues Joe Behan on €30,400 and John McGuinness on €25,700,

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<sup>1</sup> This excludes donations from the deputies’ political parties. Some of these donations may have been the result of collections of donations at the constituency level; others seem to be transfers from the central party; and several relate to the use of an office.

<sup>2</sup> However, barristers have been coded as individual donations.

both in 2007. Jackie Healy-Rae again leads those outside Fianna Fáil: all of his €24,900 in 2005 was attributed to “businessmen”, “builder/contractors” or “hoteliers”. It is also possible to code donations related to the property industry by looking at the names of companies, either identified as donors or provided as addresses. Donors including the words “property”, “developments”, “construction”, “homes” and “auctioneers” were coded as property-related businesses. Businesses such as solicitors and engineering firms were not included. 29 per cent receiving donations report at least one donation from the property industry. Again, the top three come from Fianna Fáil. John McGuinness received €16,500 from such businesses in 2007, Bobby Aylward €12,000 also in 2007 and Eoin Ryan got €9,900 in 2004. The highest figure outside Fianna Fáil was Jim O’Keeffe’s of Fine Gael: he raised €5,000 from the property sector in 2007.

It is possible to infer the motivation of donors from the position of the politician to whom they donated and the timing of the donation. Donations at election time are more likely to be ideological, or gestures of political support, rather than an attempt to influence a decision. Donations to members of governing parties are more likely to be targeted at gaining some influence. Given the dominance of the cabinet in Irish politics, donations to ministers are particularly likely to be aimed at decision-making. The following analyses use these three variables to predict donations to Irish TDs, including separate analyses of business and property-related donations. There are separate models for the 2002 to 2007 Dáil and the first three years of the 2007 to 2011 Dáil. Each model includes only deputies that served in the relevant Dáil taking account of deaths, retirements and by-elections. Fianna Fáil TDs that lost the party whip, but stayed in the national organisation, are coded as Fianna Fáil members.

Since the returns are annual, not by Dáil, for deputies that served in both Dáileanna the 2007 figures include some money that may have been raised just before or just after the relevant term. There are three different specifications. First, since most TDs did not receive any contribution in an average year, a logit model predicts the logged odds that a TD would receive a donation in a given year. Second, an ordinary least squares regression predicts the amount received by each TD in a given year. The amount is logged to reduce the impact of the comparatively large amounts raised by some deputies. Third, there is a Tobit model to account for the “left-censoring” caused by the non-reporting of donations below the legal threshold. The total amount of annual donations is also logged for this class of models. The three different techniques produce substantively similar results.

Table 2 shows the estimates for all donations. TDs are much more likely to receive donations in election years, which suggests that, in general, donations are expressions of political support intended to help a TD win election. Membership of governing parties or the cabinet are statistically insignificant: donations are not aimed at the most powerful.

[Table 2 about here]

Table 3 shows the estimates for business donations. This class of donations is also much more likely to be received in an election year, although in some of the models coefficients are noticeably smaller than for overall donations. However, the coefficients for governing party are two to ten times bigger depending on which pair of models is compared. The governing party coefficients are significant at one per cent for the full Dáil term of 2002 to 2007, and five per cent for 2007 to 2009. The

smaller size and lower significance of the coefficients for 2007 to 2009 is hardly surprising as this was the period of an extreme economic and political crisis. Indeed, it seems remarkable that the government's donation bonus is still observable in spite of the crisis. During the 2002 to 2007 term, the dominant governing party, Fianna Fáil, was more popular than the opposition and was widely given some of the credit for the ongoing economic boom in Ireland. Perhaps this was acknowledged more by business donors than by donors in general. However, the data are more straightforwardly interpretable as an indication that business donors, seeking influence, were more attracted by power than other donors. Nonetheless, the coefficients for ministers, the most powerful actors in Irish politics, are even smaller than for overall donations: ministers were less likely to receive business donations than other TDs from 2007 to 2009. Perhaps businesses thought it was impossible to obtain direct access to ministers and instead sought it through the brokerage of TDs.

[Table 3 about here]

Table 4 contains the model for donations from the property sector. The coefficients for election year are similar to those for business donations. On average, the coefficients for governing party are much larger than for business donations, ranging from 60 to 230 per cent of their equivalents in Table 2. All governing party coefficients are significant at one per cent for 2002 to 2007; while two are significant at five and one at one per cent for 2007 to 2009. The coefficients for cabinet are larger and all in the right direction, but do not approach statistical significance. It appears that property donors were somewhat more attracted by power than other business donors. Although, it is also possible that the models reflect the sector's

support for Fianna Fáil’s “ideologically” pro-development stance, rather than the particular interests of the contributing businesses.

[Table 4 about here]

The absence of patterns in the identities of the disclosed donors is very striking. Regular donations by business were very rare: only four businesses donated on four or more of the eight years: BCR press, Ballycummin Estates, Ladbrokes and McGinley Motors, all to Fianna Fáil TDs. There seem to be only two examples of hedging between government and opposition. In 2007, Treasury Holdings donated to both Chris Andrews and Joe Behan of Fianna Fáil as well as Jim O’Keeffe of Fine Gael.<sup>3</sup> In 2002 and 2004, the firm had contributed to only Fianna Fáil. Also in 2007, Waterford Castle Hotel made donations to local TDs, John Deasy of Fine Gael and Martin Cullen of Fianna Fáil. The rarity of regular donations and hedging are evidence against reciprocal exchange, or even donations aimed at developing reciprocity, in Irish politics. Corporate donations are small, perhaps too small in cash terms for discrete exchanges. However, they are large in relation to the TDs political income and the limits on campaign expenditure. There were sufficiently few donors, and their donations were a sufficiently large proportion of TDs’ political funds, for a deputy to develop a relationship with a business donor’s management and to attempt to (be seen to) intercede with decision-makers. Some of the TDs report that their donations were profits from fundraisers, which were also probably occasions that were suitable for the development of reciprocity. Moreover, it should be remembered that Dublin City councillors sold their votes for comparably small amounts in the

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<sup>3</sup> This assumes that the Spencer Dock Development Company, part-owned by Treasury, represented the same interest.

early 1990s. Since Fianna Fáil was in government throughout this period, it is difficult to rule out their dominance of donations to TDs was a reflection of support for, and the popularity of, the Fianna Fáil party. Nonetheless, as already argued, this interpretation seems strange given the similarity of the two major parties in Ireland.

Disclosed and undisclosed donations suggest that business pragmatism in business financing of Irish politics continues. Business donations to TDs show a clear bias towards the governing party; property donations exhibit an even stronger bias. The legal evasion of disclosure of corporate donations to the parties may reflect public misunderstandings of the social and ideological motivations behind business financing of parties. However, it is also likely to be intended to offer businesses a greater potential benefit from political decisions than would be possible if donations were fully disclosed. The next section considers recent reform proposals in the light of the preceding analysis.

## **Reform**

The Moriarty Tribunal's remit included recommendations on the regulation of political donations. Its suggestions seem to be inspired by both the events it investigated and the law in other jurisdictions. The major recommendations were as follows:

1. All income, not just donations, should be disclosed. In many countries, parties must publish annual accounts. It is, however, unusual to require details of all income. In Australia, all payments received by a party above a threshold must be reported. Parties often classify income from fundraising events as commercial income, rather

than political donations, thereby hoping to evade disclosure. Requiring the reporting of all payments alleviates this problem. In Australia, parties must classify all income as ‘donations’ or ‘other payments’. The legal distinction is subtle in practice and the Australian Electoral Commission does not have the resources to contest dubious classifications. Nonetheless, citizens and researchers can make their own guesses as to the motivation behind reported payments.

2. The ‘gross amount of a donation should determine its disclosability, so that, for instance, where tables at dinners or similar functions are paid for by way of political donation, the total contribution, and not the value thereof after deducting the cost of the relevant function, should be disclosed’ (Moriarty, 2011: 1158). This is another recommendation that addresses how fundraising techniques create opportunities to engage in evasive accounting. The TDs’ returns contain many small payments described as profits from fundraisers. It is very tempting to inflate the cost of a chicken dinner, game of golf, or the administration of a lottery.

3. Loans should be disclosed.<sup>4</sup> This is also an area where accounting treatment can serve to evade disclosure. British political parties classified large donations as loans to avoid disclosure. When discovered, some loans were reclassified as donations, as neither the donor nor the donee ever intended the money to be paid back, and indeed the donee would have found it difficult to do so (Doward and Syal, 2008). In Britain, loans, and crucially the attached interest rate, now have to be disclosed. A large loan-qua-donation can potentially give a donor much more leverage over a politician or party than a normal donation. Allied Irish Banks did not press Charles Haughey to

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<sup>4</sup> The Tribunal’s language is confusing on this issue, but, at a minimum, it advocates the publication of some loans, and, at a maximum, all loans (Moriarty 2011, 1158).

repay his debts. Claims about loans to politicians have recently resurfaced in Irish politics (Oliver, 2011; RTÉ, 2011b). Irish politics is not particularly capital-intensive. Therefore, personal liabilities may be relatively more important than party liabilities in Ireland than in some other jurisdictions.

4. Voluntary auditing of officeholders. This is the equivalent of parties publishing their annual accounts. It makes sense in the context of the great power of individual cabinet ministers and the importance of individual candidates in Irish electoral competition. However, it lists only Ministers, Ministers of State, and the chairs and deputy chairs of the two houses of the Oireachtas. Thus, it is not a check on the role of brokerage in business lobbying.

5. Disclosure of interest, or even potential interest, in government contracts. This suggestion is aimed at the most obvious private good that government can supply. Of course, there are many other benefits that can be targeted at donors.

6. Instant disclosure. The internet means there is virtually no practical objection to this proposal. In Britain, disclosure is now very close to real time during general elections.

The first three of these recommendations aim at full disclosure of payments, thus remedying the most obvious flaw in the current legislation and practice. The fourth and fifth seem very ambitious in laying bare actual and potential financial interests in political decisions. Ireland's politicians have reacted decisively, but have made a different diagnosis and offered a different prescription. For Fine Gael, Fianna Fáil

and Labour, the problem is the source of donations, rather than an absence of transparency. Fianna Fáil presented a bill to end corporate donations (Dáil Debate 10 May, 2011, Electoral (Amendment) (Political Donations) Bill 2011). A government bill, probably fearing a constitutional challenge to an outright ban, proposes procedures that restrict corporate donations to €200 unless the donor provides SIPO with:

- the name and address of the person or persons responsible for the organisation, management or financial affairs of the body;
  - a statement of the nature and purpose of the body;
  - a list of the membership or shareholders of the body;
  - a copy of its statement of accounts for that year, and;
  - a copy of the annual report to its members;
- and,
- the donor has declared to the recipient that the donation has been authorised by a general meeting of the members of the body concerned (Electoral (Amendment) (Political Funding) Bill 2011, General Scheme, 2.1).

The clear intention is to marginalise funding from business corporations, while still allowing trade unions and public interest groups a role in financing Irish politics. The bill also reduces the thresholds for accepting and disclosing donations. The maximum donation to a party is reduced to €2,500 from €6,386.69 and the maximum to individuals is reduced to €1,000 from €2,539.48. The threshold for disclosure of donations to parties comes down to €1,500 from €5,089.95 and that for individuals comes down to €600 from €634.87. The bill does introduce a requirement for the parties to publish audited annual accounts. However, it does not stipulate what detail is to be provided, instead asking SIPO, after consulting with political parties, to produce guidelines (Electoral (Amendment) (Political Funding) Bill 2011, Head 28).

It would be difficult for an administrative body like SIPO to suggest the reporting of specific loans, or specific sources of non-donation income, if the political parties resist doing so. The bill seems to envisage a very general profit and loss account and balance sheet as is common in many jurisdictions. The bill also provides for changes to provisions for the funding of local and presidential elections and introduces gender quotas as a condition for receiving full public funding.

The bill's aggressive attack on corporate donations is much more radical than the Moriarty recommendations, and is a clever way of trying to avoid possible constitutional problems with a straightforward ban. Together with the reduction in thresholds, it should reduce the considerable scope for reciprocal exchange between Irish politics and business that currently exists. However, it leaves open the possibility of political contributions described as "commercial payments", undervalued profits from fundraisers, or loans to politicians and parties. An annual statement of accounts, while very welcome, does not necessarily detail specific payments or liabilities and therefore does not address this problem. Indeed, pseudo-commercial payments and pseudo-loans could easily be large enough to form the basis of discrete exchanges. It is virtually impossible to eliminate the potential for reciprocal exchange from the political system, as it only requires small amounts of money per annum. Moreover, business interests can be furthered through individual payments. The giant Telenor donation to Fine Gael reached the party disguised as a donation by Fine Gael activist David Austin. The TDs' donation returns contain some of the names of Ireland's most prominent developers. Although legally individual some of these payments may have served business interests. Donations by wealthy businesspeople are common in other jurisdictions. Often, they are ideological

payments, aimed at furthering the donor's political values, rather than their business interests, but the latter is possible, especially when direct corporate donations are difficult. The small-scale of Irish society and the family nature of many businesses suggest that this phenomenon is potentially more dangerous in Ireland than in other jurisdictions.

Once politicians agree, transparency regulations are quite easy to implement. It is much more difficult to implement changes to political decision-making such that politicians cannot distribute private goods to donors. Nonetheless, this is also essential to restrict unhealthy exchanges between donors and politicians in the future.

It is both commonplace and correct to advocate greater transparency in executive decision-making and greater legislative oversight would help (Barry, 2011; OECD, 2011). However, another change is to shift away from private goods and towards public goods.

## **Conclusions**

This article has concentrated on potential exchanges between businesses and politicians in Irish politics. By doing so, it has taken a new angle on issues previously studied from the vantage point of corruption, and to a lesser extent, social partnership, industrial policy and the regulation of lobbying. The forthcoming drastic restriction of corporate donations may eliminate the possibility of further such studies in the future. However, studies of individual donors have been undertaken outside Ireland and much can be learnt from their social, political and economic backgrounds. Moreover, studies of firms making commercial payments or loans to Irish parties and politicians would also be very valuable, if such information is made available.

This study has concluded that there has been considerable scope for the exchange of brokerage services in reciprocation for small disclosed donations. It is also possible that there has been discrete exchange of private goods for undisclosed donations or loans from businesses or businesspeople. This is evident from the statistical association between disclosed donations to TDs and Fianna Fáil, anecdotes about undisclosed donations and the insights generated by the tribunals of inquiry. The fundraising techniques of Irish parties and TDs are remarkably similar to those of other English-speaking jurisdictions. However, the small scale of Irish society, the candidate-centred electoral competition, the TD's tradition of constituency service, and the dominance of the executive all point towards a particular importance for individual relationships and brokerage.

The marginalisation of corporate donations would reduce the scope for both reciprocal and discrete exchange. However, reform should go further by demanding the enumeration of both commercial payments and loans. Both of these have greater potential to warp politics and the economy than relatively small, disclosed corporate donations. Moreover, the potential for business cash to infiltrate politics cannot be eliminated as legally individual donations may be proxies for business interests. In an Irish context, the intertwining of personal relationships, business, and politics is perhaps more likely than elsewhere.

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**Table 1.** Donations and public funding

|      | Fianna Fáil |        |                | Fine Gael |       |                | Labour    |       |                |
|------|-------------|--------|----------------|-----------|-------|----------------|-----------|-------|----------------|
|      | Donations   |        | Public Funding | Donations |       | Public Funding | Donations |       | Public Funding |
|      | TDs         | Party  |                | TDs       | Party |                | TDs       | Party |                |
| 2002 | 239170      | 193539 | 1898164        | 17695     | 0     | 1193566        | 40800     | 18314 | 627385         |
| 2003 | 14539       | 8579   | 1972279        | 0         | 0     | 1126877        | 3560      | 6349  | 606324         |
| 2004 | 91307       | 43572  | 2049876        | 6100      | 0     | 1168924        | 3920      | 0     | 626481         |
| 2005 | 114361      | 76498  | 2124237        | 1000      | 0     | 1209218        | 3740      | 0     | 645799         |
| 2006 | 83937       | 0      | 2199254        | 3200      | 0     | 1249867        | 4850      | 11100 | 665286         |
| 2007 | 412391      | 19044  | 2244024        | 93382     | 0     | 1420551        | 40660     | 18648 | 656468         |
| 2008 | 37457       | 11800  | 2284872        | 19450     | 0     | 1545630        | 2320      | 0     | 652704         |
| 2009 | 16800       | 0      | 2329418        | 5750      | 0     | 1574916        | 1320      | 0     | 663557         |

*Note:* The source is the Standards in Public Office Commission.

**Table 2.** All donations

|  | 2002-2007         |                 |                    | 2007-2009         |                  |                    |
|--|-------------------|-----------------|--------------------|-------------------|------------------|--------------------|
|  | Logit             | OLS             | Tobit              | Logit             | OLS              | Tobit              |
| Election                               | 2.07<br>(0.22)**  | 2.7<br>(0.26)** | 11.73<br>(1.05)**  | 2.31<br>(0.25)**  | 3.24<br>(0.32)** | 13.27<br>(1.1)**   |
| Governing party                        | 0.15<br>(0.26)    | 0.29<br>(0.27)  | 1.46<br>(1.45)     | 0.2<br>(0.32)     | 0.36<br>(0.33)   | 1.65<br>(1.73)     |
| Cabinet                                | 0.23<br>(0.51)    | 0.27<br>(0.64)  | 1.24<br>(2.83)     | 0.24<br>(0.52)    | 0.2<br>(0.62)    | .98<br>(2.8)       |
| Constant                               | -2.51<br>(0.24)** | 0.5<br>(0.16)** | -14.53<br>(1.49)** | -2.66<br>(0.29)** | 0.35<br>(0.19)   | -15.15<br>(1.75)** |
| Wald / F                               | 89.35**           | 37.72**         | 43.96**            | 85.9**            | 33.78**          | 49.46**            |
| Pseudo R <sup>2</sup> / R <sup>2</sup> | 0.155             | 0.159           | 0.073              | 0.187             | 0.212            | 0.094              |
| Log pseudolikelihood                   | -408              | -               | -969               | -203              | -                | -489               |
| Observations                           | 982               | 982             | 982                | 505               | 505              | 505                |
| Teachtaí Dála                          | 168               | 168             | 168                | 169               | 169              | 169                |

\*P&lt;0.05, \*\*P&lt;0.01

*Note:* Robust standard errors, clustered by TD, are presented in parentheses.

**Table 3.** Business donations

|  | 2002-2007         |                  |                   | 2007-2009        |                  |                   |
|--|-------------------|------------------|-------------------|------------------|------------------|-------------------|
|  | Logit             | OLS              | Tobit             | Logit            | OLS              | Tobit             |
| Election                               | 1.41<br>(0.26)**  | 1.09<br>(0.2)**  | 9.44<br>(1.6)**   | 1.98<br>(0.31)** | 1.83<br>(0.28)** | 13.19<br>(1.63)** |
| Governing party                        | 1.51<br>(0.34)**  | 0.96<br>(0.22)** | 9.95<br>(1.99)**  | 0.88<br>(0.38)*  | 0.73<br>(0.28)*  | 6.03<br>(2.46)*   |
| Cabinet                                | 0.04<br>(0.55)    | 0.08<br>(0.58)   | .52<br>(3.78)     | -0.17<br>(0.64)  | -0.14<br>(0.6)   | -0.42<br>(4.2)    |
| Constant                               | -3.83<br>(0.32)** | -0.04<br>(0.09)  | -26.83<br>(2.2)** | -3.52<br>(0.4)** | -.012<br>(0.15)  | -24.31<br>(2.62)  |
| Wald / F                               | 61.5**            | 16.2**           | 27.54**           | 44.96**          | 15.53**          | 24.32**           |
| Pseudo R <sup>2</sup> / R <sup>2</sup> | 0.124             | 0.083            | 0.067             | 0.145            | 0.12             | 0.815             |
| Log pseudolikelihood                   | -283              | -                | -580              | -155             | -                | -325              |
| Observations                           | 982               | 982              | 982               | 505              | 505              | 505               |
| Teachtaí Dála                          | 168               | 168              | 168               | 169              | 169              | 169               |

\*P&lt;0.05, \*\*P&lt;0.01

*Note:* Robust standard errors, clustered by TD, are presented in parentheses.

**Table 4.** Property donations

|  | 2002-2007        |                  |                    | 2007-2009        |                  |                    |
|--|------------------|------------------|--------------------|------------------|------------------|--------------------|
|  | Logit            | OLS              | Tobit              | Logit            | OLS              | Tobit              |
| Election                               | 1.5<br>(0.39)**  | 1.09<br>(0.2)**  | 10.48<br>(2.41)**  | 2.87<br>(0.62)** | 0.99<br>(0.21)** | 18.76<br>(3.08)**  |
| Governing party                        | 3.5<br>(1.02)**  | 0.96<br>(0.22)** | 20.57<br>(4.72)**  | 1.2<br>(0.52)*   | 0.44<br>(0.16)** | 8.6<br>(3.39)*     |
| Cabinet                                | 0.47<br>(0.44)   | 0.08<br>(0.58)   | 3.53<br>(3.16)     | 0.11<br>(0.61)   | 0.03<br>(0.31)   | 0.28<br>(3.98)     |
| Constant                               | -6.9<br>(1.01)** | -0.05<br>(0.09)  | -47.67<br>(4.79)** | -5.52<br>(0.8)** | -0.18<br>(0.08)* | -38.61<br>(4.33)** |
| Wald / F                               | 34.35**          | 16.2**           | 18.9**             | 22.22**          | 7.78**           | 12.96**            |
| Pseudo R <sup>2</sup> / R <sup>2</sup> | 0.189            | 0.083            | 0.114              | 0.21             | 0.095            | 0.142              |
| Log pseudolikelihood                   | -127             | -                | -237               | -78              | -                | -144               |
| Observations                           | 982              | 982              | 982                | 505              | 505              | 505                |
| Teachtaí Dála                          | 168              | 168              | 168                | 169              | 169              | 169                |

\*P&lt;0.05, \*\*P&lt;0.01

*Note:* Robust standard errors, clustered by TD, are presented in parentheses.