



The Knesset - Research and Information Center

PARTY FINANCING AND ELECTIONS FINANCING IN ISRAEL

**Background Material Prepared at the Request of
the Secretary General of the Knesset, Mr. Arie Hahn,
for Dr. Thomas Grant,
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Concerning the Mc. Connell v. FEC Case**

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Prepared by:
Dr. Susan Hattis Rolef, Head of the International Desk,
Ms. Liat Ben Meir, Research Assistant,
Ms. Sarah Zwebner, Research Assistant,
The Knesset Research and Information Center

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1. Introduction

The political system, the electoral system and the manner in which parties and elections are financed in Israel, are different to those prevailing in the United States.

Israel has a system of parliamentary democracy. The elections to the Knesset (the Israeli parliament) are based on proportional representation - not on personal elections, in which each candidate contends personally in an electoral district or constituency. Thus, except for a period of six years (1996-2001), in which Israel had direct elections for the Prime Minister, side by side with elections to the Knesset, when much of the focus was on the candidates for the Premiership and their election campaigns, it is political parties that are the principle players in the Israeli political system, and the laws dealing with politically related activity and financing deal primarily with the parties.² It should be noted that in the period 1996-2001,

¹ Prepared by Dr. Susan Hattis Rolef, with the assistance of Ms. Liat Ben Meir and Ms. Sara Zwebner, of the Knesset Research and Information Center.

² One must distinguish among several terms, which are 'party', 'party group', 'parliamentary group', and 'list of candidates'. See glossary at end of paper.

when the leaders of the main political parties contended directly for the premiership, in addition to leading their parties in the elections to the Knesset, some of the problems that exist in the United States regarding election financing and "soft money" emerged in Israel as well.

In Israel, it is the state that covers most of the parties' budgets, on a yearly basis. In a period of elections the financing is more generous. Only a small fraction of party finances originates from sources other than the state budget.³ The law concerning non-public contributions is extremely strict and limiting. The basic principle behind this policy is the principle of equal opportunity for the various lists running in the elections. The principle of equality has been dealt with in various court rulings. (See below)

Party financing in Israel is regulated by the **Political Parties (financing) Law 5733 - 1973** (last amended on June 26, 2002), and to a lesser extent by the **Parties Law 5752 - 1992** (last amended on May 15, 2002). These laws also deal with the financing of election campaigns. Under these laws it is the State Comptroller who publishes regular reports regarding party finances, who is in charge of ruling whether there has been a breach of the law regarding party financing and election financing. It is the State Comptroller who can also rule that a party group must return funds to the State because of divergences in the receipt of non-public contributions.

The issue of election propaganda, and the financing of such propaganda, is dealt with by the **Election Law (propaganda means) 5719 - 1959** (last amended on November 13, 2002). The Chairman of the Central Elections Committee (who is a Supreme Court justice) is in charge of the proper running of the elections, including ensuring that the rules regarding election propaganda are upheld.⁴ Regarding election financing, his only function is to express his opinion, if asked by a party group, as to whether a certain expenditure does or does not constitute an election expenditure.

In Israel all election propaganda which is broadcast on the radio or television, regarding which there are very strict rules concerning time, length and content, is broadcast free of charge, though it is the lists of candidates who prepare the broadcasts. In other words, the broadcasting is indirectly financed by the State. It is prohibited to purchase broadcasting time for purposes of election propaganda. One problem that has emerged in recent elections has been propaganda for Russian new-immigrant lists in Israel on TV stations in Russia. All the propaganda which is broadcast on the radio or television must be approved by the Chairman of the Central Elections Committee before being broadcast. Regarding other forms of election propaganda, there are strict rules regarding the size of ads and posters, but no upper limit as to how much a list of candidates may spend on such ads and posters, as long as it does not surpass the total sum that the list is allowed to spend on its campaign (See below). All the various forms of printed propaganda must be produced on behalf of and at the expense of the party groups or lists of candidates.

The issue of election propaganda produced by bodies other than the party groups or lists of candidates, which might be considered as a way of bypassing party and election financing,

³ The Public Committee for Determining the Rate of the "Financing Unit" (see glossary), found in its report of June 4, 2002, that 0-2% of party income originates from contribution (the Labor Party was an exception with a figure of 5%) and 0-18% from personal membership dues.

⁴ In the campaign leading up to the elections to the 16th Knesset, held in January 2003, the Chairman of the Central Elections Committee, Supreme Court Justice Misha Heshin, actually broke off a press conference being given by the Prime Minister, Ariel Sharon,, which was being broadcast live both in Israel and abroad, claiming that Sharon was using it for the purpose of election propaganda.

has been dealt with by recent reports of the State Comptroller, and it is in this connection that the issue of freedom of expression has, *inter alia*, emerged. (See below)

2. The Main Provisions of the Three Laws Dealing with Party Financing and Election Propaganda

ELECTION LAW (PROPAGANDA MEANS) 5719 - 1959

Under **paragraph 2a** of the law, it is prohibited to use funds, for purposes of election propaganda, originating from bodies that are subject to the control of the State Comptroller, such as Ministries; state owned companies or institutions; anyone holding, not under contract, state property or managing it on behalf of the state; and local councils.

Under **clause 5(a)(1)** of the law, there can be no election propaganda on radio or television broadcasts in the 60 days before national elections, except for the following:

Under **article 15**, the chairman of the Central Elections Committee determines how many minutes of broadcasting time on radio in the elections spot each list of candidates is entitled to (each list is entitled to 25 minutes of broadcasting + another 6 minutes for every MK it had in the outgoing Knesset);⁵

Under **clauses 15a(a), (b) and (d)** of the law, election propaganda on television begins 21 days before the elections (each list is entitled to 10 minutes of broadcasting + another 3 minutes for every MK it had in the outgoing Knesset).

All the propaganda broadcasts must be produced by the party groups or lists of candidates themselves and at their own expense, and must be approved in advance by the Chairman of the Central Elections Committee.

Under **article 7** of the law, except for the 42 days before elections, lists of candidates are not allowed to use, in any form, the identifying alphabetical letters that appear on their ballot papers.

Under **article 8** of the law, election propaganda cannot be accompanied by entertainment programs, including performances by artists, music, singing, films and torch-bearing. Election propaganda must not involve the giving of presents, and except for gatherings in private homes, may not involve the offering of food or drink. The prohibition of the showing of films does not apply to propaganda broadcasts on television.

Under **clause 10(a)(3)** of the law, every election poster must bear the name and address of the person who printed it, of the person who ordered it, and, should the person have acted on behalf of a party group or list of candidates, the poster must also bear their name.

Under **clauses 10(b)(4) and (5)**, in the case of national election propaganda in newspaper, no party group or list of candidates can publish more than 10,000 inches of ads in the three months preceding elections. Such ads must bear the name and address of the person responsible for ordering it, and if he acted on behalf of a parliamentary group or list of candidates, will bear the name of the group or list, or their identifying letter or common name.

⁵ During the 21 days when the election propaganda broadcasts take place, the various channels provide specific time slots for this purpose.

Under **paragraph 10(b)** of the law, propaganda on outdoor bill boards, produced by advertisement firms are permitted, as long as they are ordered on behalf of a participant in the elections, there is no discrimination among contestants, and in the case of major advertisement firms, do not make use of more than 10 percent of the bill boards controlled by that firm.

Under **article 12** of the law, a printer who has printed election propaganda, may only hand it over to whoever ordered the printing from him, or who was authorized in writing by the body that ordered it. Should the material be election propaganda on behalf of a party or list of candidates, it should only be handed over to someone authorized in writing by that party or list of candidates.

Under **paragraph 16b** of the law, the broadcasting authority shall not charge the lists of candidates for the propaganda broadcasts.

POLITICAL PARTIES (FINANCING) LAW 5733 - 1973

(A unofficial translation of this law, prepared by the State Comptroller's Office, is provided in Appendix No.1)

Party financing includes financing for current expenses of party groups, and election financing. Eighty to one hundred percent of party financing comes from government sources, and the rest from membership dues and contributions.⁶ The latter are very strictly limited.

Most of the finance received by the parties, parliamentary groups and lists of candidates running for election in Israel, comes from the State budget.

In election time state financing is made up of two components: a fixed sum received by each list running in the elections, and a variable sum, received only by those lists that were represented in the outgoing Knesset, which is based on the number of Members the parliamentary group represented by the list had in the outgoing Knesset.

Paragraph 2(a) of the law states that every parliamentary group is entitled to government financing to cover election expenses at the time of election.

Paragraph 2(a1) of the law states that a list of candidates that received in the election at least 1% of the votes, but did not pass the 1.5% qualifying threshold, is entitled to a certain coverage of its election expenses.

The law deals in great detail with the entitlement of each party group to current and election financing, and the manner in which this entitlement is set and calculated.

Article 7 of the law states that a list of candidates may not spend on the elections more than 10 financing units.⁷ If a list of candidates represents a parliamentary group that included at least five member, but no more than ten it may spend a sum of two financing units for every member (thus a list representing a parliamentary group with seven MKs in the 15th Knesset, could spend up NIS 17.612 million on its election campaign for the 16th Knesset). If a list of

⁶ See footnote No. 2

⁷ See glossary

candidates represents a parliamentary group included at least 11 members it may spend a sum of two financing units for each of its first 10 members, and one and a half units for the remainder (thus a list representing a parliamentary group with 14 MKs in the 15th Knesset, could spend up NIS 32.708 million on its election campaign for the 16th Knesset).

Paragraph 7a of the law states that a party group or list of candidates may only take loans from a banking association.

Paragraph 8(a) of the law prohibits a party group to receive a contribution from any association in Israel or abroad (association includes a registered partnership).

Paragraph 8(b) prohibits a parliamentary group or list of candidates to receive a sum of more than NIS 900 per annum from anyone who is not an association. Under **paragraph 8(c)**, in an election year the sum is NIS 1,800.

Paragraph 8(d1) prohibits a parliamentary group or list of candidates to receive contributions from anyone who is not a voter, **paragraph 8(d2)** prohibits anonymous contributions, or contributions from anyone whose personal details have not been checked.

According to **paragraph 8(e)** should the State Comptroller find that a party group has received a contribution contrary to **article 8**, it must return to the state twice the amount of the contribution, unless the Comptroller has decided on a smaller sum. Under **paragraph 8(f)** a party group or list of candidates must publish the full list of its contributors and the sums of their contributions.

According to **paragraph 8b(a)** a contribution to a cultural or educational enterprise belonging to the party group or a body connected to it, which serves exclusively for educational or cultural purposes, is not considered a contribution for purposes of article 8.

Under **paragarph 8d(a)** a party that is not represented by a parliamentary group in the outgoing Knesset, and has submitted a list of candidates, is entitled within 14 days of presenting its list to receive a contribution from a group of persons - whether organized in an association or not - that existed before the party registered, and most of whose members were among the founders of the party - as long as the source of the contribution is from funds received by that group of persons, within the limits stipulated in **article 8** with regards to a party group, and the group of persons manages a system of accounts since its foundation or during the year before the list of candidates was presented.

The law goes on to deal with accounting requirements, and the punishments for breach of the stipulations of the law.

According to **article 18**, it is the government treasury that pays for the transportation of voters from one town or settlement to another for voting purposes on election day.

The State Comptroller has, on several occasions issued instructions that have the status of subsidiary legislation. These instructions deal with the manner in which parties, party groups and lists of candidates in time of elections must manage their accounts; publication of the names of contributors and the sums of their contributions (above a certain sum); and the keeping of records regarding every expenditure over a certain sum.

THE PARTIES LAW 5752 - 1992

Regarding the issue of party financing, the Parties Law, that deals with the whole gamut of questions relating to the formation of parties, their registration, and their operation, also touches on the issue of financing.

Under **article 24** of the law all parties are required to manage account books, balance sheets and financial reports, in accordance with the instructions of the State Comptroller.

Under **paragraph 25(a)** of the law no party is allowed to have any income outside the following:

- (1) Party membership dues and fund raising appeals among members, within limits allowed by the Parties Financing Law;
- (2) Funds received from the state in accordance with the Political Parties (financing) Law;
- (3) Non-public contributions received in accordance with the Political Parties (financing) Law;
- (4) Funds received for the purpose of elections in the "New Histadrut" trade union association, as approved by the New Histadrut.
- (5) Funds obtained from activities of the party, directly or by means of party associations, involving the management of party property and funds under article 21 of the law.

Chapter B of the law deals with the financing of primaries in parties. It should be noted that primaries in Israel are internal party elections, in which either all the registered members of the party, or the members of its Central Committee participate, for the election of the party's list of candidates in an election. The chapter deals with the financing of the campaigns of individual party members in such primaries.

3. Freedom of Expression versus Equal Opportunities in Elections and other Basic Values and Principles

Israel does not have a formal written Constitution,⁸ and the legislation regarding human rights is as yet incomplete. There are two Basic Laws that deal with the issue of human rights - Basic Law: Human Dignity and Liberty of 1992, and Basic Law Freedom of Occupation of 1994. Neither law deals explicitly with the issue of freedom of expression. Nevertheless, the question has been raised whether on the constitutional level there is any linkage between freedom of expression and Basic Law: Human Dignity and Liberty. Three basic approaches may be discerned in the Court's rulings regarding this question. The cautious approach is inclined to deny any direct linkage between the two. The extensive approach includes freedom of expression in the definition of human dignity, while the middle of the way approach maintains that in the event of prejudice to the freedom of expression resulting in humiliation, this constitutes a breach of human dignity. It should be noted that the principle of freedom of expression is taken for granted in many ordinary laws, such as the Prohibition of Slander Law.

⁸ The Israeli Proclamation of Independence, of May 14, 1948, spoke of the rapid drafting of a Constitution. However, due to difference of opinions, especially with the religious parties, it was decided to prepare the constitution in stages. The idea was that the Knesset would pass Basic Laws on various subjects, and that when all the Basic Laws were completed, together they would form a constitution. To the present day the job has not yet been completed.

On the non-constitutional level, since the High Court of Justice ruling on the *Kol Ha'am*⁹ case in 1953 (**High Court of Justice case No. 73/53**), the court has maintained that freedom of expression is one of the basic principles upon which any democratic system stands. However, while freedom of expression exists as a principle and a value, it might clash with other principles and values, and it is necessary to find a balance among them. In other words, freedom of expression, like other rights, is a relative right. In the *Kol Ha'am* case that other value was "the public interest". The Court has stated that the "public interest" manifests itself in security, peace and public order.

In the case of what might be considered election propaganda by bodies that are not a party group or list of candidates, we have not had any court rulings regarding the question whether the prevention of such propaganda is an infringement of the freedom of expression. However, two State Comptrollers, Miriam Ben Porath and Eliezer Goldberg - both of whom had been Supreme Court Justices before assuming the post of State Comptroller - related to the issue, and stated that while it might certainly be argued that in such cases there is an infringement of the freedom of expression, since this value stands opposite the value of equal opportunity in elections, a balance between the two values requires that in this situation the latter value should prevail. (For what both Ben Porath and Goldberg wrote in their reports on the subject, see a translation of the relevant sections in Appendix 2). Both Ben Porath and Goldberg based their statements on a High Court of Justice ruling from 1992, by then Supreme Court Justice Aharon Barak (**High Court of Justice cases Nos. 869/92 and 931/92**), who stated that "the solution is to be found in an appropriate balance among the contradictory purposes". (For a translation of the relevant section in Barak's ruling see Appendix 3).

The High Court of Justice has on several occasions dealt with the issue of equal opportunities in elections. Article 4 of the Basic Law: the Knesset states that:

"The Knesset shall be elected by general, national, direct, **equal**, secret and proportional elections, in accordance with the Knesset Elections Law; this section shall not be amended save by a majority of the members of the Knesset". In a ruling from 1969 Supreme Court Justice Moshe Landau ruled in a case that came before the High Court of Justice, and dealt with the legality of the 1969 Knesset and Local Authorities Elections Law (financing, limits on expenditures and control) - 1969, that "**We do not accept the argument that article 4 of the Basic Law only lays down technical instructions regarding the implementation of the elections... If the principle of equality in article 4 covers the right to be elected, it must also manifest itself in the equality of the chances of the lists of candidates contending in the Knesset elections**". (**High Court of Justice case No. 98/69**) Nevertheless, the Court ruled at the time that it was generally agreed that one could not place all the parties on a complete equal footing because of their different size, and that the system should continue to favor parties that have already run in the past and have proven their electoral clout. In other words, the Court accepted that article 4 of the Basic Law refers to material equality rather than formal equality.

The Court has, on numerous occasions, dealt with cases brought by appellants, who have argued that certain laws are in breach of the principle of equality mentioned in article 4 of Basic Law: the Knesset. However, it should be noted that until after the two basic laws dealing with Human Rights were passed in the first half of the 1990s, the Court had never ruled that Basic Laws have a superior normative status over ordinary laws, and what the Court looked into was the question whether certain ordinary laws, or amendments of such laws, were passed by an appropriate majority. On several occasions the Court actually called upon the legislator to amend certain laws that were, in its opinion, in breach of the principle of equality.

In 1996 the now President of the Supreme Court Aharon Barak, known for his judicial activism, and generally viewed as the chief mover of what is regarded in Israel as a constitutional upheaval, ruled that "**Indeed, the Court will not hesitate to cancel a law that is**

⁹ *Kol Ha'am* was the newspaper of the Israel Communist Party.

in breach of the material equality contrary to article 4 of Basic Law: the Knesset. The basic principle of the democracy and the status of article 4 of the Basic Law, as a superior law, oblige the court to stand watch over the equality, so that it is not compromised by an ordinary law. Nevertheless, this does not mean that any breach by an ordinary law of the material equality, minor and major, will necessary lead to the cancellation of the law by the Court. The Court must honor the will of the people..." (**High Court of Justice case No. 3434/96**). In this particular case, in which the appellants argued that an amendment to the Political Parties (financing) Law was in breach of the principle of equality, the Court did not find that the amendment was actually in breach of the material equality.

4. Glossary

Financing Unit

The law defines "financing unit" as a sum of money determined by the Public Committee for Determining the Rate of the Financing Unit. This unit serves as the basis for calculating the financing that each party receives from the State budget, depending on the number of representatives its parliamentary group has in the Knesset. The exact sum is changed from time to time, and is linked, *inter alia*, to the cost of living index. Towards the elections for the 16th Knesset (January 2003), the financing unit was set at NIS 1.258 million (US\$250-290 million), so that 10 units were NIS 12.58 million.

Election Propaganda

The Chairman of the Central Elections Committee for the 13th Knesset, Supreme Court Justice Avraham Halima, defined election propaganda as: "Any broadcast whose main concern or nature is to influence the elections, or which might be interpreted by the viewer as such, as well as any broadcast whose main concern is to create sympathy, or reservations towards bodies or persons running in elections, will be considered 'election propaganda'." **The High Court of Justice, in case No. 869/92**, from 1992, defined election propaganda as: "A broadcast that contains direct preaching for parties or lists of candidates; an attack on a rival party or list; and also, any broadcast, whose dominant effect is propaganda-wise (excluding a broadcast of news value)".

Lists of Candidates

Lists participate in Knesset elections. A list must consist of at least one registered party but may include several registered parties. A list may also include individuals or movements that are not registered parties.

Parliamentary Groups (*Si'ot* in Hebrew)

When a list gets elected to the Knesset, it becomes a parliamentary group, even though the party or parties that made up the list continue to exist as a party or parties outside the Knesset. According to the Political Party (financing) Law of 1973, the House Committee can recognize a new parliamentary group after an election, such as: one that split off from an existing parliamentary group, a new parliamentary group composed of Members of Knesset who broke off from several existing parliamentary groups, or a new parliamentary group formed by the merging of two or more existing parliamentary groups. The law establishes restrictions regarding the recognition of new parliamentary groups. There is usually intensive activity in the creation of new parliamentary groups before elections to the Knesset, since party financing for election purposes depends, amongst other things, on the number of seats a parliamentary group has in the outgoing Knesset.

There is some confusion in the use of the word *Si'ot* in the Political Parties (financing) Law of 1973, where the term is used to refer to parties. We have chosen in this paper to use the term Party Group rather than Parliamentary Group in this context. The Knesset Constitution, Law and Justice Committee has requested the former Legal Advisor to the Knesset, Zvi Inbar, to review the law, and propose changes in some of the wording.

Parties

The Parties Law of 1992 defines a party as "a group of people who have associated together in order to advance, in accordance with the law, political or social goals, and to represent these goals in the Knesset by way of their elected representatives." The law has clearly defined rules regarding the establishment of parties, their registration by the Parties Registrar, their institutions, their assets, their activities and their financing etc. According to the law the Parties Registrar will not register a party, whose basic principles reject Israel's existence as a Jewish or democratic state, incite to racism, or serve as a camouflage for any illegal activity.

Party Groups (see Parliamentary Groups)

5. Bibliography (Hebrew)

Election Law (propaganda means) 5719 - 1959

Hannania Gad, "The Financing of Election Propaganda and the Allocation of Free Broadcasting Time for Election Propaganda - the Law Prevailing in Israel", background paper prepared for MK Avshalom Vilan, the Knesset Research and Information Center, June 13, 2001

High Court of Justice Court cases Nos. 73/53; 98/69; 869/92; 931/92; 3434/96.

Parties Law 5752 - 1992

Political Parties (financing) Law 5733 - 1973

The Public Committee for Determining the Rate of the Financing Unit Report of June 4, 2002

The State Comptroller Report on the Results of the Audit of the Party Groups for the Period of the Elections for the Fourteenth Knesset, Jerusalem, 1997

The Report was prepared by State Comptroller Miriam Ben Porath

The State Comptroller Report on the Results of the Audit of the Party Groups for the Period of the Elections for the Fifteenth Knesset, Jerusalem, January 2000

The Report was prepared by State Comptroller Eliezer Goldberg

6. Appendix No. 1¹⁰

UNOFFICIAL TRANSLATION BY THE STATE COMPTROLLER'S OFFICE OF THE POLITICAL PARTIES (FINANCING) LAW

POLITICAL PARTIES (FINANCING) LAW, 5733-1973

Definitions

1. In this Law -

"party" has the same meaning as in the Political Parties Law, -1992;

"party group" means one of the following:

- (1) a party which was represented by a party group in the outgoing Knesset, submitted a list of candidates for the Knesset elections, and is represented in the Knesset by at least one representative;
- (2) a party the representative or representatives of which in the Knesset has or have been recognized as a party group by the House Committee;
- (3) a combination of two or more parties which maintain one party group in the Knesset;

"body connected with a party group" means a body of persons, incorporated or unincorporated, which participates in election propaganda and which, in the opinion of the State Comptroller, must be considered an instrument of the party group, taking account of all or some of the following characteristics: its objects and activities, the identity of its owners, managers and members, the intended use of its profits and the sources from which its losses are to be covered; but it does not include a labour federation or a cooperative society for settlement in relation to activities in which in the opinion of the State Comptroller, it does not engage as an instrument of the party group";

"expenses" means the expenses of a party group for the organisation of its activities, for propaganda and information and for the maintenance of organisational and ideological ties with the public, and includes liabilities incurred in respect of such expenses;

"election expenses" means the special expenses of a party group incurred during the election period or for purposes of the elections in the Knesset election campaign;

"running expenses" means the expenses of a party group, other than election expenses;

"the determining day" means the 101st day before elections to the Knesset or, in relation to elections held under a Law for the dissolution of the Knesset, the third day after the coming into force of that Law;

¹⁰ We should like to thank Mr. Yehoshua Roth, Sernior Assistant to the State Comptroller, and International Liaison in the State Comptroller's Office, for providing the unofficial translation of the Political Parties (financing) Law

"election period" means the period from the determining day to election day;

"financing unit" means an amount designated by the Finance Committee of the Knesset as a financing unit for the purposes of this Law and notice of the designation of which has been published in *Reshumot*;

"the public committee" means the committee established pursuant to section 1A;

"the Elections Law" means the Knesset Elections Law [Consolidated Version], -1969;

"candidates' list" has the same meaning as in the Elections Law;

"banking corporation" as the same meaning as in the Banking (Licensing) Law, -1981.

Public committee.

1A. (a) For the purposes of this Law, a public committee, composed of three persons and headed by a judge appointed by the President of the Supreme Court, shall be established. The other members shall be appointed by the Speaker of the Knesset, and one of the committee's members shall be, at the time of his appointment, a faculty member of an institution of higher education recognized pursuant to the Council for Higher Education Law, -1958. The Speaker of the Knesset shall publish in *Reshumot* the composition of the committee.

(b) The public committee shall serve for four years from the day of publication of the notice referred to in subsection (a).

(c) A person shall not serve as a member of the public committee for more than two complete terms.

(d) Where a committee member ceased serving or was precluded from fulfilling his duties, a replacement shall be selected as provided in subsection (a) for the balance of the committee's term.

(iv) The Speaker of the Knesset shall issue directives in respect of the compensation to be paid to members of the public committee, which shall be paid from the Treasury.

Function of the public committee.

1B. (a) The public committee shall set the amount of a financing unit as provided in section 3.

(b) Determination of the financing unit shall commence at one of the following times, as the public committee shall decide: January 1, April 1, July 1 or October 1.

(c) The public committee shall not reduce the amount or financing unit that it set except by unanimous decision.

(d) A financing unit shall not be set retroactively.

Linkage.

1C. (a) In this section, "index" means the consumer price index published by the Central Bureau of Statistics.

(b) The financing unit shall be linked to the index, for which purpose the following provisions shall apply:

(1) Where a change occurred in the index for January of the current year compared to the index of January for the preceding year, the financing unit shall be changed in accordance with the amount of change in the index;

(2) The amounts that changed shall be rounded off to the nearest hundred shekels;

(3) The committee shall publish in *Reshumot* notice of the changed amounts.

Right to be financed.

2. (a) Every party group shall, in accordance with the provisions of this Law, be entitled to be financed for -

(1) its election expenses in the election period;

(2) its running expenses in every month from the month following the publication of the results of the elections to the Knesset until the month in which the results of the elections to the next Knesset are published.

(a1) A candidates' list that received more than one percent of the valid votes in the elections, but does not share seats pursuant to section 81(a) of the Elections Law, is entitled to receive election expenses in the amount of one financing unit, provided that the conditions of section 6(a) are met, *mutatis mutandis*; for this purpose, "valid votes" has the same meaning as in the Elections Law.

(b) The moneys for financing shall be paid out of the Treasury, through the Speaker of the Knesset, into a bank account of each party group, as provided in section 6(a)(3).

Financing of return elections.

2A. Where return elections are held to elect the prime minister pursuant to section 13 of the Basic Law: The Government, a party group or candidates' list to which each of the two candidates belongs shall be paid an additional amount of eight financing units.

Calculation of financing.

3. (a) Election expenses of a new party group within its meaning in section 16 shall be financed on the basis of one financing unit per seat obtained by the party group in the elections to the Knesset, plus an amount equal to one financing unit.

(b) Election expenses of a party group shall be based on the number of financing units obtained from the number of seats that the party group obtained in the elections to the Knesset, divided by two, together with an amount equal to one financing unit.

(c) The monthly financing of running expenses shall be in the amount of five percent of one financing for each seat that the party group obtained in the elections to the Knesset, plus five percent of one financing unit.

Payment of election expenses.

4. (a) A party group which delivers to the Speaker of the Knesset a certificate by the Chairman of the Central Election Committee that it has submitted a candidate's list for the next Knesset shall forthwith be paid an advance on its election expenses. The advance shall be 60 percent of one financing unit in respect of each Knesset Member who belonged to the party group on the date of submission of the candidate's list. In this matter, Knesset Members who left the party group shall not be taken into account.

(a1) Notwithstanding the aforesaid in sub-section (a), a party group with less than five Knesset Members may request an advance on account of the financing for its election expenses in the amount of 60 percent of five financing units, provided that it deposited with the Speaker of the Knesset an independent bank guarantee, to his satisfaction, for the difference between the amount of the advance pursuant to this subsection and the amount of the advance to which it is entitled pursuant to subsection (a). The bank guarantee shall remain in effect at least until six months after election day, and shall include the bank's undertaking to pay the Treasury the amount of the guarantee, in whole or in part, at the request of the Speaker of the Knesset.

(a2) A candidates' list may request an advance on account for its election expenses in the amount of 60 percent of five financing units, provided that it delivered to the Speaker of the Knesset a certificate by the Chairman of the Central Election Committee that it has submitted a candidates' list for the next Knesset, deposited a bank guarantee as mentioned in subsection (a1), and fulfilled the conditions stated in section 6(a).

(b) Where in the elections to the incoming Knesset a party group obtains at least one seat, it shall be paid, out of the amount due to it under section 3(a) -

(1) eighty-five percent immediately after the publication of the election results;

(2) fifteen percent immediately after the State Comptroller has submitted to the Speaker of the Knesset a favourable report under section 10(b).

(c) An advance received by a party group under subsection (a) shall be deducted from the payments under subsection (b). Where the advance exceeds the amount due to the party group in respect of election expenses, the excess shall be deducted from the first amount or amounts due to it in respect of running expenses.

(c1) Where the advance that was paid pursuant to subsections (a1) and (a2) exceeds the amount due to the party group or candidates' list under subsection (b)(1), the Speaker of the Knesset shall order that the bank guarantee be exercised, in whole or in part, up to the difference between the amount of the advance that was paid and the amount due.

(d) A party group shall be entitled to be reimbursed for financing expenses incurred by it in respect of election expenses.

(e) For the purposes of this section, "financing expenses" means financing expenses paid to a financial institution in connection with a credit granted to a party group for the purposes of election expenses borne by it in the period beginning fifteen days after the determining day, provided that financing expenses shall not be refunded in respect of a credit in excess of the amount of election-expenses financing to which the party group is entitled under section 3 and which has not yet been paid to it under subsection (a) or (b).

Exception to financing.

4A. Special financing shall not be provided for expenses for repeat elections held in a particular polling station, as provided in section 86(d)(1) of the Elections Law.

Payment of running expenses.

5. Payments for financing the running expenses of party groups shall be made to them at the times prescribed by the public committee.

Appointment of accountant.

5A. (a) A party group or candidates' list shall appoint an accountant to inspect its accounts and give a legal opinion pursuant to section 10(d1).

(b) The accountant, notification of whose appointment is delivered pursuant to section 6(a)(4) and who consented to serve in that capacity (hereinafter - accountant), shall serve until a replacement has been appointed for him.

(c) Where the accountant resigned or is unable to fulfill his duties, the party group or candidates' list shall, within 30 days from the time it was so notified, appoint another accountant in his stead.

(d) The State Comptroller may prescribe guidelines for accountants appointed for the purposes of this Law in respect of ways and procedures for inspecting the accounts of the party groups and candidates' lists.

Conditions of payment.

6. (a) A prior condition for payment of the amounts for financing election and running expenses is that within fifteen days after the determining day, and for a new party group - within fifteen days after the day on which it was recognized as a party group -

(1) the party group has notified the Speaker of the Knesset of the names of not fewer than two and not more than eight representatives empowered to act on behalf of the party group for the purposes of this Law (hereinafter referred to as "the representatives"); the consent of the representatives shall be attached to the notification; at least one of the representatives shall be a Knesset Member, and concerning at least one of them the party group and he himself shall declare that he is familiar with the party group's financial position;

(2) the party group has submitted to the Speaker of the Knesset a declaration signed by its representatives that it has done everything necessary to ensure the proper keeping of an account of its income and expenditure in accordance with the relevant directives of the State Comptroller;

(3) the party group has notified the Speaker of the Knesset of the number or numbers of its account or accounts at a bank or banks.

(4) the party group or candidates' list has notified the Speaker of the Knesset of the name of its accountant, his address, and additional particulars as prescribed by the Speaker of the Knesset, and attached the accountant's consent to serve in his capacity,

(b) A party group may at any time replace or add to its representatives, provided that it has notified the Speaker of the Knesset accordingly and the representatives meet the requirements of subsection (a)(1). It may also notify the Speaker of the Knesset of any change or addition to its bank accounts.

Authorized signature.

6A. (a) Financial obligations of a party group or candidates' list shall be valid only if given by a person determined by the party group, which published their names in accordance with the directives of the State Comptroller.

(b) The provisions of subsection (a) shall not derogate from the power of the State Comptroller to deem the financial obligations given in contravention of subsection (a), as expenses incurred or contributions received pursuant to this Law.

Limitation of expenses.

7. (a) A candidates' list shall not incur election expenses in an amount exceeding ten financing units.

(b) Subject to the provisions of subsection (c), a party group shall not incur election expenses exceeding seventy financing units.

(c) (1) A party group which on the determining day did not have more than five Knesset Members shall not incur election expenses exceeding ten financing units;

(2) A party group which on the determining day had more than five but less than eleven Knesset Members shall not incur election expenses exceeding two financing units in respect of each Knesset Member belonging to that party group;

(3) A party which on the determining day had eleven or more Knesset Members shall not incur election expenses in an amount exceeding two financing units in respect of the first ten Knesset Members, and one and a half financing units in respect of each remaining Knesset Member.

(d) A party group shall not during one year incur running expenses of an amount exceeding three-fifths of the amount due it for financing its running expenses, or an amount that exceeds three-fifths of the amount due as aforesaid to a party group with five Knesset seats, whichever is more.

(e) In repeat elections to elect the prime minister as aforesaid in section 2A, a party group or candidates' list shall not expend more than one half of the amount set forth in the said section.

Limitation of loans.

7A. A party group or candidates' list shall not receive loans except from a banking corporation.

Limitation of income.

8. (a) A party group or candidates' list shall not, directly or indirectly, receive any contribution from a body corporate whether in Israel or abroad. For the purposes of this provision, "body corporate" includes a registered partnership.

(b) A party group or candidates' list shall not, directly or indirectly, receive any contribution that is not from a body corporate as aforesaid in subsection (a) in an amount or amounts exceeding 900 new shekels a year from an individual and his household.

(c) For purposes of a year in which elections to the Knesset or to all the local authorities are held, the amount of 1,700 new shekels shall come instead of the aforesaid amount in subsection (b).

(d) The amounts stated in subsections (b) and (c) shall be linked to the index and shall be rounded off, as provided in section 1C(b).

(d1) A party group or candidates' list shall not receive contributions other than from a voter within its meaning in the Elections Law.

(d2) A party group or candidates' list shall not receive anonymous contributions. For this purpose, a contribution given by a person whose identity and address are not checked and verified by or on behalf of the party group or candidates' list are deemed to be given anonymously.

(e) Where the State Comptroller found that a party group received a contribution in violation of this section, the party group shall transfer to the Treasury, at the time prescribed by the State Comptroller, an amount twice the amount of the contribution. However, the State Comptroller may determine that the party group must transfer to the Treasury a lesser amount if he deems it proper to so act under the circumstances. Where there is no credit balance in the party group's bank accounts to transfer the amount to the Treasury, the State Comptroller shall so inform the Speaker of the Knesset, and the Speaker of the Knesset shall deny the party group the amount due to it as aforesaid and shall transfer it to the Treasury.

Contribution from kibbutz or agricultural society.

8A. A contribution which a *kibbutz* or agricultural society makes to a party group in lieu of individual contributions by its members and the amount of which in the opinion of the State Comptroller is reasonable in the circumstances of the case shall not be regarded as a contribution by a body corporate within the meaning of section 8. For this purpose, *kibbutz* includes a *moshav shitufi* (socially individualistic but economically collectivistic settlement - Tr.) and any cooperative society for agricultural settlement the income of which is not in the main distributed among its members;

"agricultural society" means any other cooperative agricultural society the members of which have individually empowered it to contribute to the party group.

8B. (a) Any such contribution to a cultural or educational enterprise of a party group, or of a body connected with a party group (hereinafter - cultural enterprise), which serves an educational or cultural purpose, as the case may be, shall not be regarded as a contribution within the meaning of section 8, subject to the provisions of subsection (c).

(b) Where the State Comptroller determined that an expense incurred by a cultural enterprise was used to finance election propaganda or party activity, the expense incurred shall be considered an incurred expense of the party group.

(c) Where the State Comptroller determined as aforesaid in subsection (b) and subsequently determined that the cultural enterprise again incurred an expense as aforesaid, the expense shall be regarded a contribution, and the State Comptroller may rule that the contribution is a prohibited contribution pursuant to section 8 and the provisions of subsection (a) shall not apply to the cultural enterprise.

(d) Where the State Comptroller determined as aforesaid in subsection (c), the recipient of the contribution shall not be charged with an offense pursuant to this section unless the State Comptroller had previously notified the cultural enterprise that subsection (a) does not apply to it.

Contributions in case of waiver of financing.

8C. Where a candidates' list or party group gave, no later than the day for presenting the candidates' list pursuant to the Elections Law or from the determining day, whichever is later, written notice to the Speaker of the Knesset that it does not desire to have its expenses financed under this Law, section 8(c) shall be deemed, regarding it, to state 60,000 new shekels, and it shall not be entitled to have its election expenses financed in that election campaign for the Knesset.

New party which submits a candidates' list.

8D. (a) A party that is not represented by a party group in the outgoing Knesset and submitted a candidates' list, may, within 14 days from the date of submitting the list, receive a contribution from an association of individuals, whether or not a body corporate, which existed before the party was registered and most of whose members are among the party's founders, provided that -

(1) the source of the contribution is moneys received by the said association of individuals, within the limits prescribed in section 8 regarding a party group;

(2) the said association of individuals kept accounts from the time of its founding or during the year preceding submission of the candidates' list, whichever is later.

(b) The accounts kept as provided in subsection (a) shall be delivered to the State Comptroller together with the accounts of the party group or candidates' list pursuant to section 10(a).

(c) The State Comptroller shall have, regarding an association of individuals as aforesaid, the same powers granted him regarding a party group pursuant to sections 9(b) and (c).

Keeping of accounts.

9. (a) From the fifteenth day after the determining day and so long as it is entitled to have its expenses financed, a party group shall -

(1) keep a set of accounts, and enter its income and expenditure therein, in accordance with the directives of the State Comptroller;

(2) hold the moneys designated for its expenses in the bank accounts referred to in section 6(a)(3).

(b) The said set of accounts and the bank accounts shall be available for inspection by the State Comptroller, who for this purpose shall have all the powers vested in him with regard to an inspected body by the State Comptroller Law [Consolidated Version], - 1958.

(c) The State Comptroller may at any time demand from the representatives of a party group a declaration signed by them as to the completeness or correctness of the entries in the set of accounts or as to the character or nature of a particular item of income or expenditure. A declaration as aforesaid may be made according to the knowledge or best of the knowledge of the declarants, and the Comptroller may at his discretion accept it as evidence.

(d) Upon the request of at least six members of the party group, the party group shall make available for their review the set of accounts referred to in subsection (a).

(e) Each party group shall provide to the Speaker of the Knesset the annual balance sheet of the party group and its annual income and expenditure statements, which shall be open for public review as the Speaker shall determine.

Penalties.

9A. (a) A person who does any of the following shall be liable to imprisonment for a term of one year -

(1) knowingly makes a financial undertaking that is not in accordance with the permission given and published pursuant to section 6A;

(2) knowingly fails to comply with a demand made pursuant to section 10B;

(3) knowingly makes a contribution in violation of the provisions of this Law;

(3) knowingly receives on behalf of a party group or on behalf of a candidates' list a contribution in violation of the provisions of this Law.

(b) A person who knowingly makes a false declaration under section 9(c) regarding a material particular shall be liable to imprisonment for a term of three years.

Reports of State Comptroller.

10. (a) Within ten weeks from the end of the month in which the election results are published, the representatives of a party group or candidates' list shall deliver to the State Comptroller its accounts for the election period. Where they fail to do so and the State Comptroller notifies the Speaker of the Knesset that in his opinion its omission was unjustified, the Speaker of the Knesset shall direct that no payment under this Law be made to the said party group or candidates' list until notification is received from the State Comptroller that the accounts were submitted to him and that the party group or candidates' list ostensibly kept a set of accounts in accordance with his directives.

(b) Within twenty weeks after receiving the accounts referred to subsection (a), the State Comptroller shall deliver to the Speaker of the Knesset a report of the results of the inspection thereof, indicating -

(1) whether the party group or candidates' list has kept a set of accounts in accordance with his directives;

(2) whether the party group's or candidates' list's expenses and income in the election period were within the limits stated in section 7(a) and section 8.

(c) Within ten weeks from the end of every financial year, representatives of a party group shall deliver to the State Comptroller its accounts for that year. Where it fails to do so and the State Comptroller notifies the Speaker of the Knesset that in his opinion its omission was unjustified, the Speaker of the Knesset shall direct that no payment under this Law be made to the said party group until notification is received from the State Comptroller that the accounts were submitted to him and that the party group list ostensibly kept a set of accounts in accordance with his directives.

(c1) For the purposes of this section and section 7(b) -

(1) a year in which Knesset elections are held shall be deemed to terminate at the end of the month in which the election results are published, and the accounts referred to in this subsection shall be delivered together with the accounts referred to in subsection (a);

(2) the year following elections shall be deemed to begin at the beginning of the month following publication of the election results and to terminate at the end of the following financial year.

(d) Within sixteen weeks after receiving the accounts referred to subsection (c), the State Comptroller shall deliver to the Speaker of the Knesset a report on the results of the inspection thereof, including -

(1) whether the party group has kept a set of accounts in accordance with his directives;

(2) whether its expenses and income during the year were within the limits stated in section 7(b) and section 8.

(d1) The accounts delivered pursuant to this section shall have attached to them an opinion of the accountant of the party group or candidates' list regarding their correctness and completeness and regarding the keeping of a set of accounts in accordance with the directives of the State Comptroller.

(e) (1) If the report under subsection (b) is unfavourable, the Speaker of the Knesset shall return to the Treasury the 15 percent balance referred to in section 4(b)(2). If the report under subsection (d) is unfavourable, the Speaker of the Knesset shall deny the party group the next three payments for financing its running expenses and return the amounts of these payments to the Treasury.

(2) Notwithstanding the provisions of paragraph (1), if the report pursuant to subsection (b) or (d) is unfavourable because of an excess in the amounts prescribed in section 7(a) or (b), the Speaker of the Knesset shall return to the Treasury or shall deny, as the case may be, one-third of the excess amount, provided that the amount returned or denied does not exceed 20 percent of the amount that the party group or candidates' list is entitled to under section 2(a)(1) or of the annual amount that the party group is entitled to under section 2(a)(2), as the case may be. The return or denial shall be made from the balance referred to in section 4(b)(2) or from the forthcoming payments for financing the party group's running expenses, as the case may be.

(3) Notwithstanding the provisions of paragraph (1), where a party group or candidates' list has kept a set of accounts pursuant to the directives of the State Comptroller but not in strict adherence thereto, the Speaker of the Knesset shall return to the Treasury from the balance referred to in section 4(b)(2), or shall withhold from the forthcoming payments for financing the running expenses of the party group, as the case may be, amounts smaller than those specified in paragraph (1), as the State Comptroller may recommend having regard to the nature and extent of the deviation, and similarly of the party group or candidates' list that received a contribution in violation of the provisions of section 8 and the State Comptroller found that under the circumstances it is proper to act toward it as stated in this paragraph.

(f) The Finance Committee of the Knesset may, after consultation with the State Comptroller, extend any of the times set by this section. The decision of the Committee shall be published in *Reshumot*.

Body connected with party group.

10A. (a) For the purposes of section 7, expenses of a body connected with a party group shall be regarded as expenses of the party group.

(b) For the purposes of section 8 -

(1) a contribution received by a body connected with a party group shall be deemed to have been received by the party group;

(2) a contribution received by a party group from a body connected with the party group shall not be regarded as a contribution by a body corporate.

(c) The provisions of section 9 relating to a party group shall apply also to a body connected with a party group. The accounts of every body as aforesaid shall be delivered at the same time as the accounts of the party group are delivered under section 10.

Powers to aid accountant.

10B. The accountant of the party group or candidates' list may at any time demand its representatives to provide him with information, documents, explanations, and any other material necessary for him to inspect the accounts.

Opinion.

11. (a) A party group may at any time ask the Chairman of the Central Election Committee for an opinion as to whether a particular item or kind of expenditure constitutes election expenses. The Chairman of the Central Election Committee shall give his opinion after consultation with the Vice-chairman unless he considers the matter urgent.

(b) The opinion shall be given within seven days and be delivered to the Speaker of the Knesset, the State Comptroller, the party group which asked for the opinion and all the other party groups.

(c) A party group may at any time ask the State Comptroller for an opinion as to whether a particular item or kind of expenditure constitutes running expenses. The opinion shall be given within twenty-one days and be delivered to the Chairman of the Central

Election Committee, the Speaker of the Knesset, the party group which asked for the opinion and, if the State Comptroller deems it desirable, the other party groups.

Provisions as to parties maintaining a single party group.

12. (a) Where a party group is a combination of two or more parties which maintain a single party group in the Knesset, those parties shall, as to everything relating to the financing of running expenses, be deemed to be separate party groups.

(b) A party group which is a combination as specified in subsection (a) shall give the Speaker of the Knesset notice of the party affiliation of its members at the time of publication of the election results, and payments for financing running expenses shall be made accordingly.

(c) Where a party group combined with another party group, or two or more party groups decided to be one party group, they may give the Speaker of the Knesset notice that they desire, as to everything relating to financing of running expenses, to be deemed separate party groups. The party groups shall state in their aforesaid notice the number of members at the time for whom each one of them receives financing of running expenses, and payments for financing running expenses shall be made accordingly.

Changes in composition of party groups.

13. (a) Where a party group in the Knesset split or party groups in the Knesset merged as provided in section 25(b1) and (b2) of the Elections Law, financing of running expenses of the parties that split shall be calculated according to the number of new seats, from the month following the House Committee's approval of the change.

(b) In every other case, Knesset Members who seceded from a party group shall not be entitled to the financing of running expenses, and the financing of the expenses of the party group from which they seceded shall not be changed.

13A. (Repealed).

Merger of party groups during election period.

13B. Where two or more existing party groups merge during the election period (such party groups hereafter in this section referred to as "the former party groups"), the representatives of the party group replacing them shall include the accounts of the former party groups relating to the election period in the accounts delivered by them to the State Comptroller under section 10(a).

Report on party group which received an advance payment and has not obtained a seat.

13C. (a) Where a party group which received an advance payment to finance election expenses under section 4(a) does not obtain a seat in the elections, the provisions of this Law shall continue to apply to it for the purpose of the inspection of its accounts for the election period under section 10.

(b) Where the State Comptroller's report under section 10(b) concerning a party group as referred to in subsection (a) is unfavourable, the persons who were the representatives of the party group shall be jointly and severally liable for the return to the Treasury of 15 percent of the advance payment received by the party group.

(c) Subsections (a) and (b) shall apply *mutatis mutandis* to a member of the outgoing Knesset who received an advance payment under section 16(3) if the candidates' list headed by him does not obtain a seat in the elections.

Report on party group which received running expenses and has ceased to exist.

13D. (a) Where before the date for the delivery of its accounts to the State Comptroller under section 10(c) a party group ceases to exist owing to a split as referred to in section 13A or a merger within a new party-group framework or the resignation of its members from membership of the Knesset or because it does not regain any seats in the elections, the persons who were the representatives of the party group shall deliver to the State Comptroller, within ten weeks from the date when the party group ceases to exist, the accounts of the party group as to its income and running expenses in that part of any year in which it existed as a party group.

(b) Within twelve weeks after receiving accounts under subsection (a), the State Comptroller shall deliver to the Speaker of the Knesset a report on the results of the inspection of the accounts, as provided in section 10(d). For this purpose, the limitation of expenses under section 7(b) shall be calculated according to the ratio between the period to which the accounts relate and a whole year.

(c) Where the report under subsection (b) is unfavourable, the persons who were the representatives of the party group shall be jointly and severally liable for the return to the Treasury of 15 percent of the monthly financing received by the party group under this Law during the period to which the report relates.

Repayment by party group which ceases to exist.

13E. Where after receiving financing under this Law a party group ceases to exist, the persons who were its representatives shall, after paying its debts, return the balance of the amounts in their possession to the Treasury.

Notices by party groups.

14. Notices and declarations by a party group under this Law shall emanate from the representative of the party group, or his deputy, designated under section 25 of the Elections Law.

Bar to charge and attachment.

15. The amounts due to a party group under this Law cannot be charged or attached.

New party groups.

16. Members of the Knesset elected from a candidates' list submitted by a party that was not represented in the outgoing Knesset shall, from the day on which the new Knesset convenes, be a party group within the meaning of this Law (hereafter - "new party group"), and the provisions of this Law shall apply to it with the following modifications:

(1) eighty-five percent of the amount for financing election expenses shall be paid to the new party group immediately after it has fulfilled the requirements of section 6(a)(1) to (3), and the payments for financing running expenses shall be made from the month in which it fulfills those requirements;

(2) the following shall be prior conditions of the payment of the 15 percent balance of the election expenses:

(a) the new party group did not in the election period incur election expenses exceeding by more than one third one financing unit in respect of each seat obtained by it in those elections or three financing units, whichever is more;

(b) the new party group did not in the election period receive contributions in contravention of section 8;

(c) the State Comptroller has certified to the Speaker of the Knesset, on the basis of an inspection of the accounts of the new party group, that it did not exceed the limitations imposed by subparagraphs (a) and (b).

(3) a candidates' list submitted by a party that is not represented by a party group in the outgoing Knesset, and the head of the list and its representative is a member of the outgoing Knesset who is not a member of a party group in the Knesset, is entitled to receive an advance on the election expenses of the list, pursuant to section 4(a) and (a1), in an amount equal to the amount due to a one-member party group, after it delivered to the Speaker of the Knesset the certification of the Chairman of the Central Election Committee that it submitted a candidates' list for the incoming Knesset and the requirements of section 6(a) have been fulfilled in its respect.

(4) section 9 shall apply to a new party group from the day on which its candidates' list is submitted.

Amounts received from the General Federation of Labour.

17. (a) (1) Amounts which under a decision of the General Federation of Labour in Eretz Israel are received by a party group for financing an election campaign in that federation and in the trade unions organised therein or allotted for the purposes of the parties represented in that federation in accordance with the size of their representation (hereafter - the amounts) shall not be deemed a contribution under section 8, provided that the party group did not exceed the provisions of section 7(d).

(2) Expenses that a party group incurs relating to an election campaign or its ongoing activity in the General Federation of Labour in Eretz Israel and in the trade unions organised therein (hereafter - the activity), shall not be deemed running expenses under section 7(d), provided that the party group attributed the expenses to activity, in its customary manner on the eve of commencement of this Law. A change in attribution as aforesaid shall not be made unless approved by the State Comptroller.

(b) Notwithstanding the provisions of subsection (a), the provisions of section 7(d) shall not apply if the party group expended them solely for activity, maintained them separately, and stated them in its accounts such that the State Comptroller can, employing customary inspection procedures, clearly identify, certify, and total them, and that it recorded in the same manner the acts that constitute expenditure of the amounts. Amounts or parts thereof that are not used for activity needs shall be deemed a contribution received pursuant to the provisions of section 8.

17A. (Repealed).

Transportation of voters.

18. The transportation for the purpose of voting in elections to the Knesset of persons entitled to vote from the area of one locality to that of another and back shall be financed out of the Treasury through the Central Election Committee. It shall be carried out along such routes and over such distances as the Committee may prescribe and in accordance with such procedures and arrangements as it may direct. It shall take place on the day of the elections, but the Committee may permit it to take place shortly before that day by reason of the great distance between two localities.

19. (Repealed).

Implementation.

20. The Speaker of the Knesset is charged with the implementation of this Law.

Commencement.

21. This Law shall have effect from the 1 January 1973.

Golda Meir
Prime Minister

Shneur Zalman Shazar
President of the State

7. Appendix No. 2 ¹¹

Unofficial Translation of an Extract from the State Comptroller's Report on the Results of the Audit of the Party Groups for the Period of the Elections for the Fourteenth Knesset, Dealing with the Issue of **Freedom of Expression Versus the Principle of **Equality of Elections**.**

The Report was prepared by State Comptroller Miriam Ben Porath, and was published in Jerusalem in 1997.

pp. 4-5

7. (a) In the election campaign to the 14th Knesset, the phenomenon of wide scale election propaganda that was carried out by various bodies and extra-party organizations, was widespread. We are speaking primarily of the publication of advertisements in the press, billboards and stickers. The expenditure for this propaganda, the total value of which reached millions of NIS, was not reflected in the accounts of the party groups, nor in the sources of financing for these expenditures. We are speaking primarily of election propaganda in favor of the two large party groups, and in favor of those standing at their head, who ran for the post of Prime Minister...

...After the posters were checked by members of my staff, and after receiving explanations from the representatives of the parties, I reached the conclusion, that a significant part of (the advertisements, bill boards and stickers) constitute, both in terms of their quantity and in terms of their content, clear election propaganda in favor of the party groups, or in favor of those standing at their head, who ran for the post of Prime Minister.

I have also found that there is reason to believe, that part of the advertising bodies enjoyed contributions from many persons. After those persons realized that the law, as amended, does not permit them to contribute to the party itself, they granted contributions to part of the advertising bodies. To conclude, I was not convinced that these propaganda advertisements were not approved by the parties concerned, or with their agreement, explicit or implicit...

- (b) The representatives of the party groups washed their hands of responsibility for the said propaganda, and raised various arguments, the main ones of which are described below:

(1) Placing limitations on the making of election propaganda, is an unreasonable breach of the **freedom of expression**. This opinion is not acceptable to me. Indeed, the **freedom of expression** is one of the basic principles that are recognized in Israel. But also the principle of the **equality of elections**, that is based on article 4 of the Basic Law: the Knesset, is one of the foundation stones, the importance of which to democracy is not in question. By limiting the sum of contributions, the Financing Law does indeed place certain limitations on the **freedom of expression** - in our case, the financing of election propaganda in favor of a particular party group - but in my opinion there is no blemish in this breach, since it creates a proper balance between the two said basic principles.

¹¹ We should like to thank Ms. Ita Wetzler, former Director of the Section for Control of the Local Authorities and for the Control of Party Financing in the State Comptroller's Office, for bringing the State Comptroller Reports in which the issue of freedom of expression is mentioned.

This balance among the basic values, though within the context of prohibitions and limits placed by the Election Law (means of propaganda) 1959, was dealt with by the High Court of Justice, in the words of the then Honorable President (of the Supreme Court) M. Shamgar, in the verdicts of the High Court of Justice Nos. 869/92 and 931/92:

"But in the said periods before elections, there is a limitation on election propaganda that is broadcast on the radio or television, since the legislator believed that the mere placing of the duty on the said national media means to preserve and respect the value of equality, is insufficient to ensure a balanced presentation of the various opinions, that can be heard freely on all days of the year... This limitation is, therefore, an unavoidable necessity..."

Unofficial Translation of an Extract from the State Comptroller's Report on the Results of the Audit of the Party Groups for the Period of the Elections for the Fifteenth Knesset, Dealing with the Issue of **Freedom of Expression Versus the Principle of **Equality of Elections**.**

The Report was prepared by State Comptroller Eliezer Goldberg, and was published in Jerusalem in January 2000.

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Election Propaganda by Extra-Party Bodies

6. Article 8 of the Financing Law prohibits a party group and a list of candidates (that will be referred to in short - group), to receive, directly or indirectly, a contribution from an association, whether inside the country or abroad, as well as from anyone who does not have the right to vote for the Knesset and Prime Minister. Article 8 also limits the level of the contribution that a group may receive from a person and members of his household, who are living at his expense. Regarding the year in which the elections for the fifteenth Knesset took place, the level of the permitted contribution was NIS 1,700.
7. In the election campaign for the fifteenth Knesset and the Prime Minister the phenomenon of election propaganda, in favor of groups and candidates for the Prime Minister, that was produced by extra-party bodies and organizations, was extensive. Within the framework of the examination of the groups' accounts, I was obliged to devote many resources to examining the activities of extra-party bodies, especially associations, which it was suspected, had acted during the elections in favor of groups or their candidates for Prime Minister, in a manner that turns their activities into a prohibited contribution under article 8 of the Financing Law. Indeed, part of the report includes findings, some of them harsh and serious, regarding the activities of extra-party associations in the elections period. It is therefore appropriate to start off by relating to the principle of the issue, as to when one should view the activity of an extra-party body - which involves election propaganda, or other activity - as a contribution to a group, directly or indirectly, which is prohibited under the Financing Law.

8. First, it must be made clear, that a contribution to a group, which is prohibited under the Financing Law (whether due to its value or due to the identity of the contributor), need not be in money. The contribution may be in kind. This also includes election propaganda performed by an extra-party body, that can be considered as a prohibited contribution to a group.
9. It has been argued before me, that the limitations regarding contributions that were laid down in the Financing Law, do not apply when one is speaking of election propaganda by extra-party bodies. The argument goes that the principle of [freedom of expression](#), grants extra-party bodies the right to carry out unlimited political propaganda. One should not deny individuals and associations [freedom of expression](#) and the right to extra-parliamentary activity, on social and political issues. One of the foundations of a democratic regime, is the [freedom of the individual](#) to act and associate, in order to influence the society in various spheres. It has also been argued, that the [freedom of the individual to express himself and act](#) is a basic right, that supercedes any interest that is likely to justify the limitation of financing.

Indeed, there is no dispute regarding the status and force of the [freedom of expression](#) in our democratic lives. Nor will anyone deny the legitimacy of carrying out political propaganda, especially on the eve of elections, since there is no clearer expression of the [freedom of expression](#) than the desire to influence the positions of the public, when it comes to determine the image of the Government in elections.

10. However, even the [freedom of expression](#), like other basis values, is a relative value. Side by side with the [freedom of expression](#), the democratic life rests on additional foundation stones. This includes the [values of equality](#), including the [equality in elections](#) (see article 4 of the Basic Law: the Knesset), and the principle of the [allegiance of the elected public representatives to the interests of the public](#), that *inter alia* makes it necessary that elected public representatives should not be dependent on owners of capital. The intention of the Financing Law, in limiting the contributions that a group is entitled to receive, is to defend these values. Our legal system recognizes the need to sometimes prejudices the [freedom of expression](#), and balance it with other values. The elections laws, including the Financing Law and the Elections Law (propaganda means) of 1959, also prejudice the [political freedom of expression](#), first of all of the groups themselves. But this prejudice is for a worthy cause, since it is designed to defend the [values of equality, the purity of the elections, and a well ordered public administration](#). Once the legislator laid down in the Financing Law, that there should be financial limitations on the scope of political expression, this approach also applies when one is speaking of expressions on behalf of extra-party bodies, that contribute through their activity to the groups themselves.

Therefore, the principle of [freedom of expression](#) has an important weight in the formulation of the arrangement that places limitations on election propaganda (both by the groups, and by extra-party bodies), in its interpretation of the arrangement, and in its implementation. The question is what the proper balance is between it and the other values...

(The report goes on to define when the propaganda activity of an extra-party body may be considered a contribution to a group, and thus an infringement of the Parties Financing Law, and when such activity is legitimate. The two main criteria presented by the State Comptroller are that the activity of the body may be defined as election propaganda, and the existence of some form of organizational link between the body and the group).

8. Appendix No. 3

Unofficial translation of Part of the ruling of the High Court of Justice in Case No. 869/92 - appellant Nissim Zvili (Secretary General of the Israel Labor Party), against the Chairman of the Central Elections Committee to the 13th Knesset and Israeli Educational Television, and Case No 931/92 - appellants the Association for Human Rights, and Hemdat - the Association for Scientific, Religious and Cultural Freedom in Israel, against the Director General of the Broadcasting Service, the Broadcasting Service, and the Chairman of the Central Elections committee to the 13th Knesset. The ruling was presented by then Supreme Court Justice Aharon Barak. Translated by Dr. Susan Hattis Rolef

16. A central basic principle, that is relevant to the formulation of the purpose of the legislation [The Election (propaganda means) Law - the translator] is freedom of expression. This freedom spreads over every expression. It attains special significance on the matter of the political expression in general, and the matter of political expression within the framework of an election contest in particular (See HCJ 73/53 - the "Kol Ha'am" company Ltd. V. the Minister of the Interior). Indeed, one of the main reasons for justifying the freedom of expression, is in the existence of the democratic system of government. Without freedom of expression, democracy loses its soul. Without democracy, the freedom of expression has no vitality. "A true democracy and freedom of expression are one and the same thing, and this is true for the whole period of the activity of the said form of government in general, and in times of elections in particular". [(Supreme Court)President Shamgar in HCJ 372/84 Klopfer-Naveh v. the Minister of Education and Culture]. The freedom of expression ensures the exchange of opinions among members of the public, and thus enables the formulation of a position regarding the issues that are on the national agenda (See HCJ 399/85 Kahane v. the Managing Committee of the Broadcasting Authority). "Only in this way can he establish for himself an independent opinion, as far as possible, on those issues that are at the center of the society's and state's interest, the decision on which is, in the final resort, in his own hands, by power of his right to elect the institutions of the State". (Justice Landau in HCJ 243/62 the Israel Filming Studios Ltd. V. Garry). From this emerges the approach - as expressed by (Supreme Court) President Shamgar - according to which:

"It is unthinkable, to be able to maintain elections in a democratic system of government, without enabling, beforehand, the exchange of opinions and mutual persuasion, and without those clarifications and debates, that fulfill a vital role in every free regime, in the course of which public opinion is formulated, be it, as stated, during elections or in all days of the year". (HCJ 372/84 Klopfer Naveh v. the Minister of Education and Culture).

17. Another basic principle that formulates the purpose of any piece of legislation, is the principle of equality. This is a basic value "which the justice system of every democratic country strives, for reasons of justice and fairness, to realize" [(Supreme Court) Presidnet Agranat in, Additional Deliberation10/69 Bronovsky v. the Chief Rabbis of Israel]. In a long list of rulings, this Court has laid down, that "the basic principle, that serves a legislative purpose for all the activities of the legislating body, is the principle of the equality of all before the law. Therefore, is should be assumed and pieces of legislation should be interpreted as intending to realize this goal, and not to contradict it" (Abu Hatzeira v. the State Attorney, HCJ 153/87 Shakdiel v. the Minister for Religious Affairs, HCJ 1/88). This principle applies to all relations among human

beings. It applies in particular in the elections contest. Its basic meaning is, of course, that every one should have one vote. Its additional meaning is that every contestant should have equal chances in his contest for the voter's vote (See HCJ 98/69 Bergman v. the Minister of Finance). "The equality of chances means an equality of opportunity and chances among all the lists running in the elections, among themselves. Therefore, it is necessary to attain an equality of chances between a large list and a small list; between a list represented in the outgoing Knesset, and a list that is not represented in the outgoing Knesset" (HCJ 246/81 The Derech Eretz Association v. the Broadcasting Authority). In relating to the Means of Propaganda Law, (Supreme Court) Justice Bach made the following observation:

"One of the goals at the basis of the instruction of this law, that prevents prohibited 'election propaganda' during a certain period before the elections, is to prevent the provision of unfair preference to one candidate over his rivals, and to prevent a breach of the principle of equality" (HCJ 524/83 the Association for Soldiers v. the Director General of the Broadcasting Authority).

Indeed it is impossible to maintain an appropriate social existence in a democratic state without equality among its sons and daughters. Anyone seeking recognition for his right, must recognize the right of the other to request similar recognition. Equality is a vital value for the social consensus that stands at the basis of the social structure.

18. The various purposes that stand at the basis of the Means of Propaganda Law, clash. The desire to ensure the freedom of expression leads to the limitation of the prohibition on election propaganda and even to its denial. Indeed, this is the law in many of the democratic countries, in which a prohibition such as that which prevails here, does not exist. On the other hand, the desire to ensure equality among the parties leads to the expansion of the prohibition on election propaganda, for there is a concern that the governing parties will "take control" - one way or another - over the means of communication in times of elections. The same applies to the desire to prevent "unfair influence" over the voter. Securing this desire - that was perceived by the historical legislator - also leads to the expansion of the prohibition of election propaganda.

So, we face contradictory purposes that struggle among themselves, for the soul of the Means of Propaganda Law. The resolution of the contradiction is not by preferring one purpose over the other. The solution is to be found in an appropriate balance among the contradictory purposes. The need for this balance was perceived by the legislator himself. Member of Knesset Warhaftig expressed this, when he presented the law for first reading:

"The problem is very grave, and its resolution sometimes looks like the solution to the riddle of squaring the circle, a sort of 'break the barrel and preserve its wine'. On the one hand - free elections are based on the principle of full freedom of speech, of persuading, of propaganda, and on the other hand - for the realization of the very principle of freedom of elections, one comes and proposes limitations on the freedom of propaganda. The secret of the success in legal arrangements of this sort, is the preservation of the balance between the principles, and preserving the line between the defense of the freedom of expression and the attack upon it". (the Knesset Record, meeting 752 of June 6, 1959, p. 2252).

Indeed, the Means of Propaganda Law is based on compromise and balance. These are the compromise and balance determined by the legislator - and they constitute the basis for our interpretive activity. But these balance and compromise in themselves do not resolve the problem that we face, which concerns the delimitation of the spread of the term "election propaganda". On the contrary: the legislative balance is what now

creates the need to maintain an additional balance - judicial by its nature - regarding the content that one must pour into the legislator's words. Indeed, in most of the cases the judge faces a legislative balance, that pulls behind it a judicial balance (see for example, Various Requests 838/84 Livne v. the State of Israel). So, for example, the legislator created a balance between the freedom of expression and the public's welfare, and laid down that the Minister of the Interior is entitled to close down a newspaper if something published in it "is liable", in his opinion, to prejudice the public's welfare (clause 19(2)(a) of the Press Ordinance). This legislative balance leads to the need for judicial balance - that was examined in the said HCJ 73/53 - regarding the nature of the "is liable". The same applies to our case. Against the background of the legislative balance, and on the basis of our legal system, what is the proper balance among the contradictory considerations, in interpreting the term "election propaganda"?

On this issue, the statements, that one must give this term "extensive" meaning or "limiting" meaning, are not very helpful. The meaning that one must give this term is the result of the balance among the various considerations. Some lead to the extension of the scope of the spread of the expression "election propaganda" (such as preventing "unfair influence", and ensuring equality), and others lead to the limitation of the scope of the spread of the same expression (freedom of expression). The limitation or extension will come at the end of the interpretive process, and as a result of it. They in themselves are not criteria for carrying out this process.

We should not assume *a priori* a need for a limiting or extensive interpretation. We must assume *a priori* only that there is a need for an appropriate interpretation. Furthermore, frequently the Court seeks to draft the appropriate balance among the competing considerations by means of the principle of reasonability. Justice S. Levine explained this, when he interpreted the Means of Propaganda Law, by saying:

"One may understand by the term 'election propaganda' also indirect election propaganda, and the test is the test of the reasonable person. In other words, if on the basis of the tests of reasonability, and of common sense, one should consider the said broadcast as indirect election propaganda, that must be prohibited?" (HCJ 524/83)

Indeed, putting the appropriate balance through the sieve of reasonability, sharpens the problem, and places it in the appropriate light. Nevertheless, it does not resolve it, for the question is what is the test of the reasonable person, and what are "tests of reasonability"? Indeed, reasonability itself is nothing but the appropriate balance among competing values (See HCJ 935/89). So what is the appropriate balance that establishes the reasonable test of the reasonable person?

19. The appropriate balance among competing values necessitates giving the appropriate weight to both the principle of the freedom of expression and the principle of equality. I accept the view of my colleague, (Supreme Court) President Shamgar that "the principle of freedom of expression cannot serve as a sole guiding line for the resolution of questions such as those before us". A combined solution, that both grants appropriate consideration to the freedom of expression and appropriate implementation of equality, is therefore necessary. From the point of view of the principle of the freedom of expression, it is necessary to grant the term "election propaganda" the meaning that will prejudice the freedom of expression as little as possible. Therefore, not every expression that could influence the decision of the voter, constitutes election propaganda. A satirical play, of artistic value, can sometimes influence the voter. Nevertheless, the play itself does not constitute election propaganda. It seems to me, that election propaganda is only that expression whose dominant effect is in its influence over the voter, and it has no other dominant effect, such as an artistic effect.

Therefore, a broadcast that has news value, should not be considered election propaganda, for its dominant value is not in its influence over the voter, but in offering news information to everyone. Justice Bach made note of this in the said HCJ 524/83, when he said:

"One of the main roles of television is to present to the public an up-to-date and immediate description of the important events of the day, and when this appears to be the dominant meaning of the specific broadcast, it turns into a legitimate news report, and loses the characteristic of 'election propaganda', which otherwise might stick to it"

Indeed, the appropriate balance, among competing values requires that the term "election propaganda" should include the broadcast whose effect is to convince and affect the decision of the voter, and not a broadcast whose effect is different (such as artistic, news, religious), even if its side effects are in (indirectly) influencing the voter. This was noted by Acting (Supreme Court) President, Justice Shamgar - while relating to article 8 of the Means of Propagand Law, that prohibits the accompaniment of election propaganda with entertainment programs - when he said:

"Article 8 does not deal with any event, from which influence over the consideration of the voter might result indirectly, but in propaganda, that appears as such in the eyes of the reasonable person." (Local Authority Case 1/83, Avisrur v. the Head of the Local Council of Beit Shemesh)...