Welsh Affairs Committee

Oral evidence: Pre-Legislative Scrutiny of the Draft Wales Bill, HC 962

Thursday 16 January 2014

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Written evidence from witnesses:

- Federation of Small Businesses
- Dr John Ball

Watch the meeting

Members present: David T. C. Davies (Chair); Geraint Davies; Glyn Davies; Nia Griffith; Simon Hart; Hywel Williams

Questions 76-163

Witness[es]: **:** **Huw Roberts**, Chair, Institute of Directors Wales, **Iestyn Davies**, Head of External Affairs, Federation of Small Businesses, and **Professor Dylan Jones-Evans**, University of the West of England gave evidence.

Q76 Chair: Good afternoon, gentlemen. Thank you very much indeed for coming in this afternoon. We are sorry that CBI Wales were unable to come, but we are grateful that all of you are here. I am David Davies, the Chair of the Welsh Affairs Select Committee. Some of us know each other very well.

To what extent do you think that the proposals in the draft Bill improve the financial accountability of the Welsh Government and the National Assembly for Wales, as the UK Government hope?

Huw Roberts: The IOD position is quite clear. Members of this Committee will not be surprised that the IOD has well publicised and articulated views on the size of taxation in Wales, as well as in the UK. One thing we are absolutely clear about is that, if you have organisations that are able to undertake activity which impacts on our memberships, they should not have some responsibility for the taxation that goes—

Chair: They should have some responsibility?

Huw Roberts: That they should not we would consider inappropriate. In other words, we would say that taxation without representation is as ridiculous as representation without taxation. We would want to see a significant improvement in the visible accountability of the Assembly.

Professor Jones-Evans: It is a question that can be taken both ways. If you look at it in terms of the democratic deficit, as some would argue, clearly, as the Secretary of State for Wales who put the power through said, devolution is a process rather than an event. Clearly, when you are going down this road and the vehicle is motoring, and certainly if Wales is to mature its democracy, as Huw mentioned, you cannot have a democracy where the elected Government merely spend the money they are given by the UK Government without raising some of that funding themselves.

Speaking to businesses, as I do on a regular basis, particularly younger businesses within Wales and those that are quite small but are growing very quickly, you tend to find that they are far more pro-devolution than you would expect. When you ask them the serious question about the whole issue of taxation, they are quite adamant that a devolved Government based in Wales should have some responsibility for raising those taxes. As a business themselves, they have to have financial accountability for what they do, and they believe that Welsh politicians should have the same.

There is another issue, which we may pick up on, so you may not want to talk about it now: when you talk about financial accountability, Chair, are you talking about all taxes, or do you want to specify some of the taxes? Obviously some of the questions have avoided some interesting issues about things like corporation tax, which clearly different organisations have different views on.

Iestyn Davies: We have consulted quite widely with members of the FSB, who agree that accountability is key. However, they would see fiscal autonomy not just as a measure to bring about greater accountability, which would be welcomed, but also as an opportunity to promote economic development through the effective use of the powers that fiscal autonomy brings, in order to help create, to use a well-used phrase, a greater level playing field, because of some of the structural and historical problems faced by the Welsh economy. Accountability, yes, but you can only be accountable for the powers you use. Granting powers under the remit of accountability, which then become powers you would not choose to use as a Government, does not increase accountability itself. I do not think you can simply say, just by having an extra line in your budget from a DEL line to an AME line, that all of a sudden the Welsh Government will become more accountable.

Q77 Chair: I can see that the constitutional argument you are making is a logical and sensible one, but if I were in business, I would be thinking to myself that, if the Assembly has control of taxation, or any taxes, it can decide to lower them, raise them or keep them at the same level, and, on balance, I think it is more likely than not that they would raise taxes. Is that a view that is shared by businesses?

Iestyn Davies: I do not think that is a fair view. The view that might be shared among our members is that to date they have been quite sceptical of the performance of the given Governments that we have had. That was a clear message that we received, sadly. I am not talking from the party political point of view, but in terms of governance. That was the message we had.

Chair: As far as I am concerned, you are not at all; no.

Iestyn Davies: That was a message that we received loud and clear. The debate very quickly moved to one on the performance of a particular Administration versus the governance arrangements that are in place to allow that Government to work effectively, and indeed, as you rightly pointed out, to keep them to account. Very quickly, when you spell out the current powers that are available and which could be on offer via the process, our members were keen to realise that the issue is tax variance and variation, not necessarily tax raising or tax lowering. A much more nuanced debate and discussion does then emerge among businesses. Of course, businesses themselves are very used to being able to vary costs and prices, in order to address particular economic or market needs as they see them.

Q78 Chair: Mr Roberts, do your members feel that the Assembly is pro-business and on the side of entrepreneurs and people who want to generate wealth, or do they feel, if I can generalise a bit, that there are some in the Assembly who feel that anyone who is trying to go out there and make some money is somehow doing something a bit wrong?

Huw Roberts: We need to distinguish between the views of our members about politicians in general before we come down to the view of our members about the organisation which appears to them to be closest and to have the most impact on a day-to-day basis. I would concur with much of what Iestyn said. Our membership recognises that Cardiff is where many of the things that impact on them are now decided. Certainly, having had a small business myself, which eventually became part of a much larger business, I am fully aware that we are impacted both at a UK and a Wales level by our politicians.

I think our members just accept that Cardiff is where it is. They share the view already expressed that it is very hard to get Cardiff to understand what business needs. It can be haphazard. Evidence of that is their inability to understand why you would need an arm’s length organisation to deal with economic development, for example—a serious error.

We would also recognise that you need to have some involvement in what the level of taxation is if you can hold those people to account. They can make decisions that do not have an impact for them, but they have an impact on our members. We would argue that we could get them to engage more if they knew that there was a tax-varying capacity within their set of tools.

It is not easy just to say that our people think the Assembly is or isn’t pro-business. Every time I speak to an Assembly Member, of whatever party, they will assert that enterprise and promoting enterprise is key to all that they do. At the meetings I have, I do not get invited to see any of them and tell them what we need or want. One of the difficulties for the Assembly—this may surprise people who know the IOD’s UK position, which is that we are enthusiastic as an organisation for a small state—is that we happen to think that on the ground our members cannot engage enough with the Assembly, because there are not enough of them. There simply are not enough of them for us to engage with.

If you look at the whole of the elected population of Wales, it is very large. Our members have day-to-day interaction with an incomprehensible 22 local authorities. That is far, far too many. We have far too many elected councillors. People around this room who are in different political parties will not be unaware that the parties themselves find it a challenge to get enough candidates these days. You get inundated with requests to stand for this, that or the other. We have all these elected members, but they are not in the place where they can have an impact on the economic development of Wales.

Q79 Simon Hart: I hope I did not mishear, but what did you say that your members did not have enough of?

Huw Roberts: The opportunity to engage with Members. I think we need to distinguish between the Welsh Government and the Welsh Assembly. As an organisation seeking to be the voice of enterprise in Wales, we would argue that one has to distinguish between the characteristics of each of these representative bodies. As entrepreneurs, they are busy running their businesses. They rely on me and our full-time officer to engage with politicians in Wales to put our case. We cannot get to them as much as we would like, because there simply are not enough of them as Back Benchers doing that sort of scrutiny. The level of scrutiny of the impact of Assembly policies on business is far too low.

Q80 Simon Hart: I want to explore that a bit further. Is it purely a numerical problem? Are you satisfied that it is simply numerical, or is there a quality issue? Is the problem the number of days in the week that the Assembly sits, that being two?

Chair: The quality issue?

Simon Hart: What is the ideal optimum number that you think would best serve your interests?

Huw Roberts: That is quite a challenging question, because we have not done the level of work that shows what the size of this is in other areas. Let me repeat what I said at the beginning. We would want to look at the number of elected members across Wales. We would rather there were full-time Assembly Members we could engage with so that we could ensure that, every time new legislation comes through, there is proper scrutiny of its impact on enterprise. We do not think that happens now; we think it is very poor. It is last minute, it is tagged on at the end, and it does not carefully consider the consequences. We would not object, if there were 100 Assembly Members, if there were only five councillors in Wales. That is about the right number. It is worth bearing in mind.

Chair: This is an interesting and controversial start.

Q81 Glyn Davies: You speak as the representative voice of the Institute of Directors. Is it the view of that organisation that there should be more Assembly Members? Is the IOD view that there should be more Assembly Members?

Huw Roberts: Our view is that we should look at the number of elected members across Wales and that we should have fewer than there are. Of course, one of the consequences of having fewer organisations is that you have far fewer officers, and you cannot discuss the effectiveness of a Government simply by discussing the number of its elected Members. The IOD would certainly welcome fewer councillors, even if the consequence was more Assembly Members.

Iestyn Davies: Could I put a nuance on that position from the FSB? On a professional point, I do not have a view on the number. Indeed, I would not express an opinion on the quality of elected Members, whether they be Members of Parliament, Assembly Members, peers or councillors. I do not think it would be appropriate.

Simon Hart: I think you should.

Iestyn Davies: Maybe over lunch in private I would express an opinion, but I do not think it would be the opinion of the FSB, which is what you require this afternoon. Our opinion is that, to a greater degree, it is likely that, even with the reduction to 11 local authorities that we keep hearing about on a regular basis, Wales is over-governed and, particularly as far as business is concerned, under-represented. That is about the engagement process that Huw was alluding to. You can have as many elected members as you like at different levels, but if there is no general political accountability for those individuals because they stand in uncontested seats, and if the nature of their representation means they are generally part-time rather than full-time politicians, the level of engagement you have is less. We would agree with the basic premise that Wales is over-governed and, as far as business is concerned, under-represented. I would be happy to unpack that in a different discussion.

The second part of that analysis is whether those politicians and members of the Executive—because the functions can be quite different—as the whole National Assembly for Wales have sufficient competency to address the fundamental challenges facing the economy of Wales. Our position is that it does not. We were keen during the Silk process to ensure that the conversation about fiscal autonomy included business rates. We are encouraged that the declarations we have heard include that as part of this process, but we are troubled that it is not written expressly within the Bill, as it was in the Government of Scotland Act. There are many ways we could include that.

We would say that it is fundamentally about the competency of the house, and not the competency of those who live in the house, if I can put it that way. That is a separate discussion.

Q82 Glyn Davies: We know the thing about governance. There is the Williams Commission reporting on Monday, which is likely to challenge that. What I am interested in is that what seems to be coming from the top bench is the view that there should be more Assembly Members. There may be implications in that, but we keep on changing the answer. Is there a straightforward view?

Huw Roberts: If I can repeat it, our view is that we think the issue of how many elected members there are in Wales at various levels should be addressed altogether. We do not think you should just be looking at the number of Assembly Members when you still have an incomprehensibly large number of local authorities.

Chair: Interesting though this is, I should remind everyone that it is the Government of Wales Bill that we are looking at, which at this moment does not address that. It is a very interesting issue.

Q83 Geraint Davies: It was very interesting, but can we get back on track in terms of tax? I would like to be clear whether everyone supports the partial devolution of income tax, or whether you think that having that devolution would undermine inward investment, because of the uncertainty about future levels of tax in Wales for people who have businesses and people who work in them.

Iestyn Davies: Our position in FSB is that we support the devolution of income tax. We believe that the proposed lockstep model, as it currently appears, would constrain the ability to use income tax as a lever. We would be in favour of the position as outlined by the Silk commission.

I do not feel that businesses in Wales would welcome the Welsh Government or the National Assembly having a power that they could not effectively use. It would not be welcome to have a locked-down form of fiscal autonomy. It needs to be used and welcomed, and then Government kept accountable for using it.

Q84 Geraint Davies: You agree that there should be devolution of income tax, but you think that the two rates should not be held together, and you do not agree that having those powers, if they were in the form you have outlined, would deter inward investment because of uncertainty about the future.

Iestyn Davies: No. For our members, who are largely paying their business tax not via corporation tax or capital gains tax but via income tax on domestic rates—

Q85 Geraint Davies: How would that help business?

Iestyn Davies: Because you would have an opportunity to address marginal rates of tax, particularly at the top end, to allow greater retention within the economy of Wales. In one of your previous—

Q86 Geraint Davies: How would that help? Would you reduce them to encourage people, or would you increase them?

Iestyn Davies: You would hopefully reduce them. You would also look at forms of encouraging entrepreneurship and investment in entrepreneurial activity.

Q87 Geraint Davies: From lower tax?

Iestyn Davies: From lower tax, yes.

Q88 Geraint Davies: But that is a contradiction, isn't it? How can you have more investment in entrepreneurship with lower tax?

Iestyn Davies: You would do it through incentives to increase capital allowances. You would do it through a means of retaining earnings within the business. We are not advocating dropping taxes for the sake of it. We are looking at a policy that would allow greater entrepreneurial activity by being able to vary independently the rates of taxation rather than locking them down altogether.

Q89 Geraint Davies: Professor Jones-Evans, listening to what Iestyn has just said, if I was a business looking to invest either in England or Wales, I would know where I was in England but I would not know where I was in Wales, and that would deter me. Isn't that the case?

Professor Jones-Evans: Not really, because obviously the Welsh Government would have set that and I am assuming the Chancellor would have given us some sort of forward planning as to whether he would increase, decrease or keep taxes the same.

Q90 Geraint Davies: But on an annual basis, it would change.

Professor Jones-Evans: On an annual basis, obviously this would change, according to different fiscal circumstances as the Welsh Government prepare their budget. Coming to the point you were mentioning about entrepreneurship, clearly if you look at both the theory and practice of this and talk to entrepreneurs, the less the Government tax, the more they have in their pocket and the more they can invest in their businesses.

As I am sure you are all aware, the Irish economy has gone through considerable difficulties over the last four or five years. The Irish Government brought together a group of their leading entrepreneurs to come up with a strategy to revitalise the Irish economy.

The headline figure, believe it or not, was that they should reduce income tax rates considerably to boost the economy.

There is no guarantee that the present or any future Welsh Government would do that, but it is important that they have that tool in their armoury so that if they choose, rather than giving out grants to businesses, they could cut the income tax rates to encourage them. Remember, as Iestyn said, the vast majority of small firms do not pay corporation tax. They pay as self-employed or sole traders. Therefore, any change in income tax positively—I mean a reduction, obviously—or negatively, an increase, will affect something like 90% to 95% of small businesses in Wales.

Q91 Geraint Davies: The Irish have been very successful in providing a tax haven for global companies, so that they do not pay tax for public services. Now you seem to be saying that it would be good to devolve tax, so that the Welsh Government could reduce tax and have less money for services for education and health, yet you would want me as a businessman to invest in Wales in the knowledge that the background services were as good as in England; but you seem to be saying that if we cut everything that will somehow spark up business.

Professor Jones-Evans: We have to differentiate between income tax, which we are discussing, and corporation tax, which is why the vast majority of corporations locate in Ireland. With 5 million people, Ireland is the largest exporter of software in the world. It is the second largest exporter of pharmaceuticals. Why? Because the corporation tax regime there is very positive; it is now 12.5% for manufacturing and internationally traded services.

That gives rise to the point I wanted to make, and now you have given me an opening, on the whole issue of what is happening in Northern Ireland. It is very interesting that the main tax being discussed there, in terms of devolution, has not been income tax but corporation tax. The IOD in Northern Ireland, the CBI, the FSB and all the business organisations there, plus unanimously the politicians, are fully behind devolution of corporation tax to Northern Ireland. Why? Because currently the differential across the border, as such, between Northern Ireland and the Republic is considerable. I think Holyhead is actually closer to Dublin than Belfast.

Q92 Geraint Davies: Following that, can I ask Huw Roberts whether Professor Jones-Evans hasn’t made the case for the harmonisation of all corporation tax to stop us all cutting ourselves to the bottom? Do you agree that devolution of income tax would be a helpful lever of power for the Welsh Government and for business, or would it basically mean uncertainty for inward investment and therefore be problematic from the IOD point of view?

Huw Roberts: Uncertainty is what businesses operate with all the time.

Q93 Geraint Davies: They don’t want more, do they?

Huw Roberts: The assumption that the only uncertainty would be in Wales, when indeed the UK Administration could also change their tax rates, is misplaced. What we would want to argue is that, if the Welsh Government had greater engagement with business, they might make a decision on tax that will help the economy, in very much the way that Dylan has mentioned.

Q94 Geraint Davies: Do you mean lower them?

Huw Roberts: Clearly we would prefer lowering them, because we would argue that releases more money for people to spend.

Q95 Geraint Davies: And less for education and health.

Iestyn Davies: The key to that process is also something we allude to in our written submission to you. Any measures outlined by the Bill need to include strengthening the capacity of the Treasury function. In the same way as the previous Government of Wales Act looked at the role of the regulatory impact assessments, any powers granted to the Government of Wales within the National Assembly should also go hand in hand with the need to carry out and publish tax impact assessments, so that this debate and conversation is held in the public domain, and is not done on a whim but in the same cycle as tax rates are being set by the Chancellor at the moment. We are not talking about a laissez-faire approach; we are talking about a structured Treasury-based model that allows for a cogent debate over income tax, because corporation tax has currently been ruled out.

Q96 Hywel Williams: I want to take the point that Geraint Davies made a bit further. Do you give any credence to the argument that if you lowered the higher rate of income tax you might actually improve entrepreneurship, improve income and increase the take? I think economists call it the Laffer curve; I am not an economist but I think that is what it is called. Can any credence be given to that?

Professor Jones-Evans: There is certainly evidence that having a more attractive tax regime, particularly for higher-rate taxpayers, would potentially attract more entrepreneurs. Gerry Holtham himself made that case very coherently in his reports to the National Assembly.

I have difficulty with the lock-in, to be perfectly honest, both as an academic and personally. The most important thing is that you give a Government, regardless of which colour that Government is, the powers to do the job. For example, if you wanted to attract more entrepreneurs, you cut 1% off the top tax rate. It would be interesting to see if the current Government will do that in Wales—probably not. That would automatically trigger a 1% cut, and the fiscal impact, as Gerry pointed out, is considerable. You could do that at the top rate with a very minimal effect on the budget, but if you lock it in, it means that having to give that will have an enormous effect on the budget of the Welsh Government.

I am not talking about political fairness here—if you cut 1% off the top then you have to do it at the bottom. The same would apply if you decided that the basic taxpayer should have 2% off, and automatically the top taxpayer gets the same. There is an issue about that sort of fiscal accountability that this lock does have an effect on.

Iestyn Davies: That fiscal accountability, in our model of a tax impact assessment, would then have to be balanced by cuts to budgets in areas such as business support and programmes such as, for argument's sake, Jobs Growth Wales, which exist elsewhere in the policy map. We are not talking about cutting public services, or taking a very particular view of how the economy should work. What we are saying is that that would allow this to have a minimal effect, to encourage entrepreneurship, and it would be balanced by changes in Government expenditure elsewhere.

Q97 Geraint Davies: You are one of the few voices on the lockstep, because the other two witnesses have said that they are not in favour of the lockstep. In Wales, I think we have 8,000 people who pay the 45p rate. If they only paid the 40p rate, which would be a massive difference, we would only need 9,000 people to make up the difference. We would then become a sort of tax haven and all sorts of people would start to arrive. Conceivably they might start businesses and all the rest of it. Is getting rid of the lockstep and cutting the top rate something that you would agree with? Is that something the IOD wants?

Huw Roberts: I do not think "tax haven" would be a phrase that we would recognise in that particular environment.

Geraint Davies: I was thinking of Swansea on its own, actually.

Chair: The Monte Carlo of Wales.

Geraint Davies: Wall Street in Wind Street.

Huw Roberts: Our position on the lock tax is not as fully worked out, in that we have not done research with our members on the impact of that. The work we have done in policy terms shares their view. We are arguing that the Assembly need more accountability. They construct what look to us like fairly complex rules to deny you the opportunity to do that as effectively as you should. If you are going to get accountability, make it transparent. In that sense our position, policy-wise, would be that the lockstep, lock change or whatever the right phrase is, does not seem appropriate. Either they are going to be able to do it or they are not.

Q98 Glyn Davies: There are not many things in it that are really important, but I think the lockstep is absolutely crucial to the whole Bill. I do not think a referendum is winnable. Not only is it not winnable, but it is pointless. We have a clear answer from two of you to say that you are not in favour of the lockstep. Is the IOD going to come back with a clear view about whether it is in favour of the lockstep or not? It is very important to the Committee.

Huw Roberts: I absolutely take your point. It is not a matter that we have discussed with our members. That is why I feel uncertain about giving a firm view, but I would certainly go back and get an exact position on that. In general, you will see us very much aligned with the views already expressed this afternoon. We cannot quite see why you have complications when what we are looking for is clarity and accountability.

Q99 Hywel Williams: I was going to ask about the lockstep, but given that at least we have two and a half answers, I will move on. If the lockstep is still in place, are the Government likely to use their income tax powers? We had a fairly clear view from Gerry Holtham the other day. What do you think?

Iestyn Davies: The answer is no. As a policy measure it would not be welcomed by the business community, and it would add to the inability to fight and win a referendum on the subject.

Professor Jones-Evans: If you are going to go for a referendum, you have to pick a fight that you can win. You are going to be fighting this with one hand behind your back. I have not heard so far—I may have missed the political pages of the *Western Mail*—any Assembly Member coming out against the lockstep, particularly from the Welsh Government or members of the ruling party. It is interesting. If anybody else has, I would be interested to know. I do not think that debate has been had properly within Wales yet. You are having it first.

Huw Roberts: The point I made just now is that we want to see clarity as far as possible, but we recognise that there are political imperatives here. If this referendum is going to be put on and won, there needs to be a great deal of clarity. If the lockstep is the way in which that is achieved, we would go with it, but that does not change our view that we do not like complication when it comes to taxation. We like clarity.

Q100 Hywel Williams: The Government here have argued that having a lockstep would ensure consistency with the income tax system in Scotland. Is there any value in that argument?

Professor Jones-Evans: That is the issue. It is a political imperative with the sensitivities over the referendum. The Bill being debated is to give Wales different and what could be perceived as additional and more positive powers over income tax, and could unduly influence the debate going on in Scotland. Of course, I am assuming this Bill will only reach assent after the Scottish referendum—or will it be before?

Chair: There will not be a referendum until the Bill—

Professor Jones-Evans: I mean the Scottish referendum in 2014.

Chair: I do not know when the Bill will come out.

Professor Jones-Evans: But the chances are that it will be after the referendum; therefore, that question may be moot after that, depending on the outcome of the Scottish referendum.

Iestyn Davies: Our consideration is what is best for the economy of Wales, not necessarily what is being dictated by the politics of the Union between Scotland and England.

Q101 Chair: I am dying to ask you something that goes back a little bit; I hope other members will forgive me. You were making the point earlier on that Wales could benefit from having lower taxes. Would you equally say that Wales would suffer if the power was exercised to increase taxes?

Iestyn Davies: Dylan is the economist.

Q102 Chair: With due respect, you made the point that Wales could benefit from a reduction in tax. You made a good explanation of the Laffer curve. By the same token, would you accept that an increase in taxes could harm Wales?

Iestyn Davies: I think it could. The fundamental challenge we face is not about the rate of tax—the marginal rate. It is that we lack the ability constitutionally, which is something I am more comfortable talking about, to retain value within Wales and the economy of Wales. We would see this as a mechanism for doing that, rather than something which is more of an economic function.

Professor Jones-Evans: Interestingly, as Mr Davies has mentioned, if you reduce it, then it could potentially have an effect on health and education budgets. Equally you could have the potential that a radical Welsh Government—I would not say a radical right-of-centre Welsh Government—would turn round and say, “We want the best NHS in the UK so we will add 2p to the rate of income tax to pay for that.” It would be a very brave and radical Government who do that. Again, by giving those powers to the National Assembly for Wales and to the Welsh Government, there is the potential that a party could stand on such a policy. Whether it is the right policy or not is not for me to debate today, but a party could stand on that and say, "That additional 2p will go on ensuring that the NHS in Wales is funded."

Q103 Chair: But at the moment that 2p would fall on everyone.

Professor Jones-Evans: Yes.

Q104 Chair: You are arguing for the power for the Assembly to just put that 2p on to one band.

Professor Jones-Evans: No. What I was saying was that, if you had the lock in place, it would apply across the whole. That 2p could apply to everybody. You could make the case for each and every separate band.

Q105 Geraint Davies: This is very interesting because we started off by talking about accountability.

Professor Jones-Evans: Absolutely.

Geraint Davies: I put it to you that what is happening in this debate is that the accountability of the UK Government is being lost. They are underfunding Wales, in terms of both Barnett and capital. They are pushing the debate into talking about marginal rates—what we should do with the extra 2p and all of this—and everybody has forgotten the big picture of our underfunding. Isn't this not about increasing accountability in Wales but reducing accountability for the UK Government to provide our fair share? What do you think, Huw Roberts?

Huw Roberts: The point you make is an absolutely fair one, but it is not the point that we were asked to come here to discuss. If you look, for example, at something like transport, which is hugely important to our membership, the way in which transport is funded across the UK means that Wales categorically does not get its share. I caught a train this morning that took me two hours and three minutes. If I had caught that train a third of a century ago, it would have been 20 minutes quicker. The main reason for the decline in that service, which is very important to businesses—*[Interruption.]* It is even slower for Swansea; I know that. The route from Cardiff to Swansea is no slower. It is the route to Newport and Cardiff, and to a lesser extent Bristol. In many ways, that can be demonstrated to be a consequence of a Whitehall Department applying its money to the areas which are of most interest to it. It is done because those trains stop at Reading, Slough and so on, adding two or three minutes to the journey every time. You can see an area where my membership in Wales would take the position that we would very much welcome a fair needs-based distribution of that resource, which is what we are not getting.

In a sense, that is outwith this discussion, because it is about the relationship between the UK Administration and Wales. What we are seeking to look at here is where do those who govern us in Wales show that they are taking account of the consequences of their action? That is why we are looking for transparency in the areas under debate. I am already guilty this morning of expanding beyond that, because I think it is very important.

Chair: We are all expanding quite a lot, but I take your point.

Q106 Nia Griffith: Could we move on to stamp duty land tax? You will obviously be aware that the Bill offers the potential not just for collection by the Welsh Government but for the setting of policy by the Welsh Government in respect of stamp duty land tax. What opportunities and what risks do you think that brings?

Professor Jones-Evans: I agree with most of the people who have looked at this. These taxes are quite insignificant compared with some of the other taxes that have been under discussion. I understand why we should devolve these. I am sure we will talk about air passenger duty later. It is a tidying-up exercise, because clearly some of these minor taxes will show whether certain Government Departments can deal with the consequences of having responsibility for them.

If you look at stamp duty, what could you do with that? First of all, you could encourage house building in certain areas of Wales, for example. There could be a policy towards that by reducing stamp duty charges. At the other end of the spectrum, potentially the Welsh Government could introduce a mansion tax. I believe that only four £1 million houses were sold in Wales in 2012, so that is hardly going to raise any money at all, even though reducing income tax may bring in more entrepreneurs. I do not think that will raise money.

If you think of landfill, it raised very little money last year. Again, it may not make any real difference. On the point you alluded to about policy, clearly since 1999 the Welsh Government have had a very strong sustainability policy. Having powers over the landfill tax may enable them to develop, shall we say, policies around some of the changes they may want to make to that.

Q107 Chair: I am going to gently try and speed things up a bit. I am aware that at the moment we are running late for the next panel. Does anyone have any quick points to add to that?

Iestyn Davies: We see these corrective taxes as functioning somewhere else, such as in the public policy domain rather than in the fiscal domain. They are there to combat certain activities. Perhaps stamp duty crosses over, for the reasons Dylan outlined. The landfill tax and the minor corrective taxes are really about public policy benefit and not fiscal policy, as we see them.

Huw Roberts: Our position is the same. They are relatively de minimis, and we do not think they are hugely crucial.

Q108 Simon Hart: I have a letter from the relevant Minister in Westminster in relation to a constituency inquiry on business rates, which says it is a matter for the Welsh Minister. I have a letter from the Welsh Minister about the same subject, which says it is a matter for the Westminster Minister. As you can probably imagine, knowing your membership, it is met with a pretty icy response when we have to report that kind of confusion. Are you and your members fully clear how business rates will be devolved?

Iestyn Davies: We are clear on how it stands at the moment. We have spent a lot of time looking at and examining the situation. The situation you refer to, and which we have discussed previously, is a very good example of why we need a full and unequivocal settlement and why we believe that it should be written within the Bill. In our written submission to you, we suggested a form of words very similar to that which is in the Government of Scotland Bill. Apparently, it is a lawyer's or a consultant's charter to advise people in an area which is incredibly opaque. It is something we return to in response to Silk too, and something over which we have great concerns. We feel that it does need to be included explicitly in the Bill, to spell out once and for all where the responsibility lies.

Q109 Simon Hart: Do your colleagues largely agree?

Huw Roberts: Broadly, yes.

Professor Jones-Evans: Yes.

Q110 Simon Hart: You make it sound simple. Do you think it is as simple as that?

Iestyn Davies: The confusion comes because the settlement allows the mist and the fog to emerge between the two areas.

Q111 Simon Hart: Expanding it very briefly, I have to say that probably of all the issues we have talked about, this is the one which is raised more often than any other among constituents, particularly small businesses. From your own experiences, would you agree?

Iestyn Davies: Most definitely. It is a constant concern from our members to us. The issue is not just saying that it should be devolved; it is the function, the collection and distribution of any revenue. It is the valuation process and the extent to which multipliers are allowed to diverge in Wales compared with the situation in England. It is that aspect. Without crystal clear guidance within the Act, we will still find confusion over who is responsible.

Professor Jones-Evans: As you probably know, Simon, I have been campaigning to get business rates down. Welsh small businesses are marginally worse off than their equivalent in England, and large businesses in Wales are marginally better off. I would think that is a policy that does not stand well with the vast majority of businesses in Wales. Clearly, with giving total responsibility to the Welsh Government, I do not think there can be any further excuses about whether we should be changing that policy. I find it really odd that businesses in Wales are paying far more in terms of business rates than equivalent businesses in Scotland. That really should not be the case. It should be another tool in the armoury of the economic development function of the Welsh Government to be able to cut business taxes to make Wales a more attractive place.

Q112 Nia Griffith: You have already mentioned the issue of air passenger duty. What comments would you like to make about that or any other taxes you think could have been looked at? How might the Welsh Government use powers to generate new types of taxes? What potential do you think there is for that? That is another issue that comes up in the Bill.

Professor Jones-Evans: I have to be very careful; I am from the University of the West of England, so I cannot criticise Bristol airport too much, but I live in Wales and I am a Welshman to my core, as you know. I find this an odd omission. Every organisation should have a lobbying group like Bristol airport has had. As far as I am aware, I have not heard any citizen in Bristol object to the variance in income tax powers for the Welsh Government, yet Bristol Airport has come out very strongly.

Now that you have air passenger duty as a key part of any aviation policy, and the Welsh Government, rightly or wrongly, owning Cardiff airport, clearly it is a tool that I believe the Welsh Government should have as a potential. Remember that it is limited to long-haul flights. The argument made by Bristol that it would destroy their hub network is not relevant.

Iestyn Davies: We feel this Bill should be flexible enough to allow a future taxation policy to be included. We would not want to be having this discussion yet again in two or three years' time. It is inevitable that pretty soon we will be discussing the role of corporation tax.

Huw Roberts: The IOD position is the same. We are absolutely clear that we should be looking at issues like corporation tax at an early point. Our position would be that a whole range of other taxes could and should be taken into account. On APD, we absolutely share Dylan's view; it is amazing that it is not covered.

Q113 Glyn Davies: This is almost like a Christmas present list. We now have borrowing powers invested in the Assembly. Borrowing powers were already available using the old WDA Act. Clearly if the Bill goes through, and especially with the income tax changes, there will be very significant borrowing powers available to the Welsh Government. How do you think those could be best spent to support the economy?

Huw Roberts: Clearly infrastructure would be an area that we would look at.

Q114 Chair: An M4 relief road?

Huw Roberts: I do not think I would identify specifics. The M4 relief road is one that many of our members frequently refer to. We would certainly have our input. It is also worth bearing in mind that, for us, the key thing to be successful is good skills. If borrowing was a way in which you could improve skills and education in Wales, and if that was the way we could get new and better schools, new and better universities and colleges, and a relationship between them and our members that helps to ensure that it is the right sort of training and skills, why not use borrowing powers for that?

Professor Jones-Evans: The focus of this Bill has been very much on infrastructure. Having carried out a review for the Welsh Government on access to finance, one of the things that jumps out is the way that other regional and national Governments are able to borrow on the capital markets at very cheap rates. They can then, rather than having extremely high interest rates, as we have seen in Wales from the investment arm of the Welsh Government, reduce those accordingly. I would argue that whether the Welsh Government can take on those responsibilities for getting investment funding in to support businesses should be examined in detail.

Q115 Geraint Davies: Isn't there a danger that giving borrowing powers is letting the UK Government off the hook for getting our fair share of UK infrastructure? If they are saying, "If you want more infrastructure, you borrow it," won't that just cut the amount of money available for health and education?

Iestyn Davies: You are right to signal that danger. The extent to which a future UK Government might choose that policy is a matter for the people of the United Kingdom to decide. Ultimately, as a campaigning organisation—I am sure this is the same for both IOD and Dylan in his role—I cannot see any of us on this side of the table letting the UK Government off the hook when it comes to future infrastructure.

Huw Roberts: We will rely on you doing that for us as well.

Chair: Gentlemen, thank you very much indeed. I am sorry this overran and I apologise to the next panel. I am trying to get things back on track; it is a very interesting discussion, but we will try and get through it as quickly as we can.

Examination of Witnesses

Witnesses: **Neil Brierley**, Chair, Royal Institution of Chartered Surveyors Wales, and **Dr John Ball**, gave evidence.

Chair: Dr Ball and Mr Brierley, thank you so much for bearing with us. Apologies for the slight delay; we will try and get things back on track.

Q116 Nia Griffith: I will start off with stamp duty land tax again. Does our RICS representative have any particular views on how that power should be used—the potential, the risks? What would you like to see?

Neil Brierley: Certainly, we welcome the ability to look at varying stamp duty land tax. One element we would be keen to explore and have scrutiny of is the slab element. At the moment you have sizeable jumps between certain bands. We would ask whether it should be a similar process to income tax, for example, where you pay a certain amount on a first value and then when you step up it is only on the increment rather than on the whole.

In terms of your point about where it may or may not be expanded, again infrastructure is obviously a key area. I was interested in the comment made by the IOD in terms of skills and the like. We are keen to ensure that there is spending on health and education, which, in terms of my membership, will drive investment in construction as well, and hopefully generate jobs and wider benefits for the economy. Broadly, yes, it is something that we see as a very good move.

It is also important that we bear in mind that stamp duty is often talked about just in terms of the domestic market, but it quite clearly has wider implications on land purchases and the like. We see it as a very positive thing, and hopefully it is something that can be correctly implemented.

Q117 Nia Griffith: Can I ask about cross-border issues? Do you think there would be any jumping from one side to the other? What level of change might trigger different behaviour? Do you think there is a danger, because the Welsh Government will not have that many things it can vary or change, that it might over-react on this one?

Neil Brierley: You can take a lot of the things that have already been discussed today in isolation, but we need to think about them in a broader sense. Looking at stamp duty on its own, one of the things we have been thinking about with our members is whether, if you were to look at amending the structure or reducing stamp duty, you would do it across the entire country or by looking at enterprise zones, for instance. Could you try and make an enterprise zone more attractive by reducing it?

You asked about the levels at which it might attract investment. Without doing the research, it is very difficult to give a view about the level at which you might see a trigger. We would certainly want to have a conversation with a lot of the primarily private sector developers. We find more and more that there are cross-border issues for many developers working in both England and Wales. Stamp duty is probably not one of the primary reasons why a developer or investor may look to go to England rather than Wales. There are other broader issues that need to be addressed to make Wales more attractive in terms of inward investment. That is possibly something we could explore later.

Q118 Chair: Don't worry, Dr Ball, we have questions aplenty for you later. Mr Brierley, I have a simple question. Do you think stamp duty is too high or too low?

Neil Brierley: It is perhaps less whether it is too high or too low, and more how it is structured.

Q119 Chair: Wouldn't you rather see it lower, as somebody in that industry?

Neil Brierley: A lowering would certainly be our preference, but it would need to be done in a considered way. We have already said that the amount of revenue you actually get from stamp duty is not that significant. You need to look at it in conjunction with other measures as well, rather than looking at it in isolation. If pushed on a view as to whether it should be higher or lower, we would probably say lower.

Q120 Nia Griffith: I understand what you are saying about getting rid of the big steps and having a gradual progression, but if that is such a good idea, why has it not already happened across the UK?

Neil Brierley: That is a very good question and one for which I do not have an answer. In terms of getting rid of the slab, it would probably have the biggest impact on the domestic market and private housing. That would be the biggest effect. Obviously going from 1% to 3% is quite a sizeable chunk for people, particularly in the current climate where deposits are so much greater. It is a real wrench. I am surprised it has not been done in terms of the domestic market. It is something we would obviously encourage, given the fact that, if the domestic market picks up, there is construction activity for our members.

Q121 Chair: Do you have a view, Dr Ball?

Dr Ball: Yes. Thank you for the opportunity to speak.

Chair: Don't worry, we have questions that are nothing to do with property, so I have you in mind for those.

Dr Ball: There are one or two things in the debate today, such as the whole idea of devolution and tax. To a great extent, stamp duty landfill tax is toying with the idea. Having said that, my submission was on the basis of using taxation in terms of economic development. It is perfectly clear in my view that stamp duty can be an important driver of economic development. It is often seen as a duty paid on new construction. In fact, the vast majority of buying and selling in the property market concerns existing property. When people move, they tend to buy curtains, fridges and all kinds of things. There is a very substantial multiplier effect from people buying houses, and not just new houses. It is not just the construction sector. Therefore, devolution of stamp tax and indeed lowering of stamp tax—changing the numbers along the way—could have a significant effect on the Welsh economy.

As you know from when we met some years ago, my view is very strongly that the Welsh economy is in the doldrums, big time. We should grasp strongly whatever steps can be taken to improve the state of the Welsh economy.

Q122 Chair: Is it too high or too low at the moment?

Dr Ball: As has already been mentioned, the problem at the moment is the steps. It is utter nonsense that you can sell a house for £299,000 at 1%, and if you sell it for £1 more you pay 3%. That is utter nonsense. What is clearly required is some kind of sliding scale. I am being very careful with the words I use, but houses at the top end of the market would probably have a greater multiplier in terms of further adjustment and modernisation. This idea that you jump from 1% to 3% at a certain level is frankly utter nonsense.

Q123 Glyn Davies: I want to ask you about landfill tax. I will truncate my points into one question as time is short. Do you anticipate that the existence of a landfill tax and the pressure not to pay it is going to reduce the amount of tax over a period of time? I would have thought it is bound to have some impact, but if it reduces it significantly, what other land taxes might you suggest that could take the place of that shortfall?

Dr Ball: The landfill tax, according to Her Majesty's Revenue and Customs, is worth only £50 million a year anyway. It is a negative tax. I am genuinely surprised that the Bill includes this in terms of devolving it to the Assembly; £50 million is a drop in the ocean. It is a negative tax, and the whole point of the tax is to stop landfill anyway. The tax is likely to disappear within the next x number of years, especially since the Assembly has a statutory duty on the environment. The whole question of the devolution of the landfill tax, if I may say so, is a non-starter.

Q124 Nia Griffith: Wouldn't the temptation be that, as everybody gets better at having less landfill, you increase the rate of tax so you get the same take on less landfill?

Dr Ball: That is a possibility, but at the end of the day landfill by its very nature is finite. In the areas where we live, there is substantial recycling by local authorities; there is the incinerator in Neath. That recycling is going to continue. Landfill as a concept will disappear very soon. You may well replace this with perhaps a development land tax, for example, or planning consent land tax—I don't know. Certainly the landfill tax is very much a non-starter. It is a negative tax. Why it is included in the draft Bill is frankly entirely beyond me.

Q125 Geraint Davies: On stamp duty, given that you have already described this kink in terms of the jump in the rates at £250,000, it means that people who are selling houses worth more than £250,000 tend to reduce them to just under £250,000, and other people try and raise their price. If there was a more even tax, do you accept that in many instances this would increase the price of houses? If a house was worth £260,000 and was being suppressed at £250,000, it could then be marketed at £260,000. I am not saying this is a good or bad thing, but would you agree?

Neil Brierley: I know what you are saying: there is a manipulation of market value. Residential valuation is not my specialism, but I think you can see examples where that does happen. If stamp duty was adjusted, you might see some adjustment in the market valuations of some properties. One would hope that it would mean that people could perhaps move more regularly, which is another thing. Taking Dr Ball's point about the wider benefits in terms of the consumer market, that is the bigger picture beyond property and construction.

Q126 Geraint Davies: And the Government would get more money at a lower tax by more movement.

Neil Brierley: Yes.

Dr Ball: It is the movement, Mr Davies. At the end of the day we often think of land tax in terms of new build. It is the existing market which drives a very strong multiplier.

Q127 Nia Griffith: There are a couple of things to explore on this. We have been told that one of the reasons in the logic for devolving these taxes is to allow for more borrowing powers. I would like to know what your view on that is. The other aspect, of course, is the effect on the block grant and the way that is calculated. Do you see that as being effective, or do you see any difficulties arising in how you would adjust the block grant in relation to these? Thirdly, do you see room for other types of taxes? One of the things that has been suggested—I am sure the Chair would like to remind you—is fees for bridges. Again, there are possibly opportunities for the Welsh Government.

Dr Ball: I will comment on this initially, if I may. One of the interesting things about the debate that preceded the Bill is the fear of taking devolution a stage further. The principle of different taxation in the UK exists by its very nature and it has always been the case. Council tax differs; selective employment tax at 60 differs; VAT differs: the principle is set for different levels of taxation in different ways throughout the UK. It is a long-established principle, and it is therefore important to accept that, in terms of the wider debate on powers for the National Assembly. That principle of different levels of taxation is long set.

Having said that, I am concerned that the Assembly will therefore have the power to borrow upwards of half a billion pounds when there is no way that money can be raised to repay it. I am honoured to have the opportunity to speak this afternoon. I am not a lawyer but I read through the draft Bill very carefully, and thought that it is all very well to say to Cardiff that they can borrow half a billion pounds from the market to build the new M4—which by the way is not needed and is a nonsense anyway. There are some serious issues here about the M4.

Chair: We had better not get on to that.

Dr Ball: You don't go and borrow money from the bank and then say to the bank manager, "Well, actually, Mr Jones or Mr Davies, I can't pay you back." It is nonsense. Although the powers to be able to borrow are important, how the Assembly is able to repay those funds is entirely outside the spirit and indeed the letter of the draft Bill at the moment, as I see it.

On the third part of your question, if I may, if there is not going to be further devolution of other taxes—by the way, according to HMRC, there are 24 separate taxes ranging from airport duty to cider taxes—arguably there may be a case for different forms of taxation. I said in my submission that we should be looking at the tourist industry. For example, if Wales is worth as much as it is allegedly worth, then apply a bed tax as other parts of the world do. There is no argument over additional sales tax. We could look at these things in terms of devolution of power. They would not necessarily be up front. If you are on holiday, these are very inelastic prices. People will pay it. I said this in my submission. By the way, my apologies; the figure should be £60 million, and not £6 million, in the last part of my submission. I got B for mathematics a long time ago, but I have obviously lost it. I suggested that those two taxes between them would raise something like £100 million a year as an approximation.

Chair: I think we had better continue with the questions or we will get even more behind.

Q128 Hywel Williams: Dr Ball, you said in your submission that the power to lower income tax would help the Welsh Government improve economic growth and performance. Exactly how would you see that working?

Dr Ball: The answer is to go back to straightforward economic theory and practice. At the end of the day, the driver of the economy is one thing only, and that is the level of demand in the economy. It is as crude as that. If there is a high level of demand in the economy, other things being equal, the economy will drive itself forward. If there is a low level of demand in the economy, as there currently is, the economy goes into decline. I would be the first to admit that it is a very simplistic view, but it is a very realistic view. I quote John Maynard Keynes in 1936. He was the first to identify that a high level of demand in the economy drives an economy.

Obviously, there are issues in terms of income tax. At the moment, if you could wave a magic wand, I suspect a great deal of any savings would probably be paying off debt, or would be saved, because of the current economic situation. In the wider scheme of things, an economy is driven by levels of demand. Levels of demand are driven by the amount of money floating about in the economy. I am sorry, with respect, if this is a simple idea; but it is a simple idea and it is something we should be prepared to address.

Q129 Geraint Davies: With respect, isn't it a question of who has got the money? If you gave the money to people who spend their money on things from abroad, or abroad, as opposed to a public service where they commission all the services locally, the level of demand would be higher in the second case. It is not that clear-cut, is it?

Dr Ball: No, it is not. The problem with income tax reduction is not necessarily its effect on public service; that is a debate for another day. The issue with reducing income tax, particularly within the Welsh economy, is leakages from the economy. Although in theory reducing income tax would increase demand, if that money is immediately spent on a Sony camcorder, it leaks out of the economy. That is the big problem in terms of increasing demand. I genuinely do not see an issue in terms of reducing income tax in relation to the effect on public services. I would have thought there is a connection between high levels of public services and high levels of demand in the economy, because people are working and spending money. If people are spending money, there is a higher level of tax elsewhere.

There is an issue in terms of recovering that tax. If people are spending money, they are by definition, in most instances, buying products that attract value added tax. It is interesting: people are blind to things like value added tax. When you go and buy a car or a refrigerator, you don't say to the salesman, "How much is the tax?" You say, "That is £150; I'll have that." You can hide these things; I am a great believer in taxes that you can't see.

Q130 Geraint Davies: Should VAT be devolved? I know it is against European rules.

Chair: It is not going to be in this Bill.

Dr Ball: There are arguments for bravery in terms of devolving taxation, because the principles already exist. The principle of devolved taxation already exists. With great respect, I wonder whether in this very room, in Gladstone's reforming ministry at the end of the 19th century, they had the same debate on devolving power to local authorities. I can imagine the same debate taking place 130 years ago.

Q131 Chair: With great respect, some of the arguments you are making sound more like Milton Friedman than John Maynard Keynes.

Dr Ball: I am delighted to be associated with John Maynard Keynes.

Q132 Chair: Can I turn back to you, Mr Brierley, fascinating though this is? In your written evidence, you strongly supported the changes in the draft Bill relating to the Law Commission in Wales. I am sure Dr Ball is going to have an opinion on this as well. Not being a lawyer, my view is that, if we end up with a separate legal system in Wales, we would end up with a whole load of extra costs. On the other hand, there is an issue about whether the Law Commission itself, as it is currently appointed, has enough knowledge of Wales. Can you elaborate on what you said to us?

Neil Brierley: As I said in my submission, it is important to ensure that any devolved legislation operates smoothly alongside UK-wide legislation. We want to make sure that anything that is brought in does not conflict or cause friction with wider UK legislation. We have certainly canvassed some opinion with our members, but in terms of a full opinion on the potential for this, we have not had an opportunity to engage with them thus far.

Q133 Chair: Do you want to see a separate legal system in Wales? Are you against that, for it or do you have no opinion on it?

Neil Brierley: My opinion in my day job as a chartered surveyor, as opposed to the RICS Wales opinion, is that I would prefer not to see a separate system. I think there would be huge cross-border issues. It would be incredibly complex. So many organisations work cross-border across the UK. If I take the organisation I work for, it would be incredibly problematic having different terms of appointment and different terms and conditions, if it was to affect that.

Q134 Chair: You do not see that allowing Welsh Ministers to commission work from the Law Commission would be leading towards a separate legal system, and you would not want to see that.

Neil Brierley: Again, my personal opinion would be that I would not want to see a separate legal system in Wales.

Q135 Hywel Williams: Laws in Wales can be different from those in England, given that it is a legislature. We are talking about something which is de facto rather than speculative, are we not?

Neil Brierley: Yes; so long as we are careful and there are checks and balances in place so that whatever is put in does not grate against the wider UK legislation.

Dr Ball: I have no strong views on this, Chair. Being an economist, I am going to duck this. I think Mr Williams's point is relevant. If there is a legislative body called the National Assembly, by definition there has to be some form of separate legal duties and powers. That is a fact. If you have a legislature, it has legislative support, if you like. That has to be the case.

Chair: On that happy note, I am going to call this part of the session to an end. Thank you very much. Once again I apologise to the next panel for the fact that we are running slightly late, but we are catching up.

Examination of Witnesses

Witnesses: **Stephen Brooks**, Director, Electoral Reform Society Wales, and **John Turner**, Chief Executive, Association of Electoral Administrators, gave evidence.

Chair: Mr Brooks and Mr Turner, thank you very much indeed for coming along today.

Q136 Nia Griffith: I want to start with the ban on dual candidacy. You have come out in favour of removing that ban. In the Government's own impact assessment, there is the comment that the majority of respondents said that they did not want it removed. People find it very confusing that the person they did not vote for then seems to win. Obviously Clwyd West is the perfect example, where three candidates who did not win all became Assembly Members at the same time as the candidate who did. Could you comment on why you think it should be removed?

Stephen Brooks: In terms of the 47 respondents, I looked at the list of respondents and I remain to be convinced that it is an entirely representative sample of Welsh public opinion. Obviously it is a formal Government Department consultation process, and due consideration needs to be given to those views. I am more minded to think about the evidence that the Electoral Commission gave in 2006 to this Committee, when it was previously discussed. From their own attitudinal research done after the 2003 Assembly elections, they could find no evidence to suggest that there was any kind of dissatisfaction among the electorate over the situation of dual candidacy. If you look at each and every single independent inquiry that has taken place in different territories across the world, as I think Roger Scully explained on Tuesday—Prince Edward Island and New Brunswick in Canada, the recent inquiry in New Zealand and also the Arbuthnott Commission in Scotland—they did not identify any kind of public disquiet with the system.

What you hit upon, Chair, is perhaps the least attractive aspect of the additional member system. Glyn Mathias, when he came here in 2003, said that it was by no means the best advert for AMS. I appreciate and understand the frustration that exists among some constituency Assembly Members, in terms of how they interact with regional Members. I completely understand that, but to go from tolerating a situation which is perhaps undesirable to saying that we should therefore legislate to prevent it from happening is an overreaction. Yes, it is not particularly pleasant, but introducing a statutory ban on candidates who are contesting both a constituency seat and a regional seat is an overreaction.

Q137 Chair: Mr Turner, do you have a view?

John Turner: Yes. As you will know, Chair, we are the technical people who run the elections, so we try to stay outside the political angle. I support my colleague. I found the Electoral Commission's evidence compelling, in the sense that they had done the attitudinal research and could find no real evidence of voters—the man on top of the Clapham omnibus or the woman on top of the Cardiff omnibus—being upset about this.

Using international experience, I can find no good electoral reason why you should have such a prohibition. There are many examples of that internationally which work well. On a technical issue, the provisions contained within clause 2 of the Bill appear workable and practicable. Therefore, I would raise no objection to removing the prohibition.

Q138 Nia Griffith: Let me follow up on that. If a candidate puts themselves down as a constituency candidate and they lose, it is a bit of an insurance in a way, because they might pick up on the list. Does it sometimes give an impression to people that that was their second choice and therefore they are a second-rate representative?

Stephen Brooks: The difficulty in terms of how we view constituency seats and regional seats—this is partly about how we all talk about it and partly about how political parties campaign about it in elections—is that sometimes the 20 regional list Members can be seen to be additional Members, and are somehow second-class Assembly Members.

Obviously you wait to see how many constituencies have been elected in a region before calculating who gets through on the list, but each and every single one of those 60 Assembly Members sat in Cardiff Bay this afternoon is equal. They all have the same legal mandate regardless of how they were elected and regardless of the size of their majority in their first-past-the-post constituency or whether they were elected on a regional list.

Ultimately, the Electoral Reform Society would like to move to a situation where all Assembly Members were elected under the same system. You remove the problem of dual candidacy; it is fair, proportional and it also retains a constituency link. That is the single transferable vote. I am guessing that at this stage we are probably not there in terms of talking about it for this Bill, but we should by no means see regional list Members as second-rate.

Q139 Geraint Davies: I want to give an example. I got elected to Parliament by only 500 votes against the Liberal Democrats. If I was in an equivalent Assembly situation, the person standing for an individual seat would be both standing for the individual seat and for a list seat. They would have double election expenses, which would be focused in one area—say it was an area which was basically red with one glint of orange, for argument's sake. Do you see the possibility of unfair manipulation of election expenses if the list candidate is the same as the regional candidate?

John Turner: Clearly that could happen, but it seems to be more of a problem about the way in which expenses are regulated and spent within a particular area. If somebody spent all their allocation in one particular area—

Nia Griffith: Which has happened.

Q140 Geraint Davies: Putting expenses to one side, what about the case where one person stands both for the constituency and the region, so he or she is standing in the knowledge that they are going to win anyway? They could say anything they like in the constituency, and, even if people did not like it, elsewhere in the broader sweep they might just get in anyway. Do you think that is good for democracy?

Stephen Brooks: You can also make that argument about a safe Labour seat, a safe Conservative seat, a safe Liberal Democrat seat or a safe Plaid Cymru seat, in terms of constituency—everybody is shaking their head. A candidate could say what they like and think, "Well, a national swing will take me anyway," or, "It's a safe Labour seat and people will always vote for Labour regardless of what I say."

I go back to the evidence that the Electoral Commission gave in 2006. I think the ideas have been floated again. It is potentially looking at reforming how the regional list works, moving from a closed list system, where the parties themselves choose the rank order of candidates and the elector has no choice within that, to a more open list system where there is a greater degree of choice for the elector. In some senses, that would mitigate what you are saying in terms of—

Q141 Geraint Davies: I do not mean to personalise it to me, but if you had Jones versus Davies, and Jones is going to win anyway—if he does not win against Davies he is going to win in the regional list—from the point of view of the electorate, isn't that a sort of mockery? "Vote for Jones, Vote for Jones; by the way, I am going to win anyway." It is a bit strange, isn't it?

John Turner: It seems to me that you are making a very good argument for doing away with regional lists.

Q142 Geraint Davies: No; for dual candidacy. I am saying that, if you put up Jones and he says, "Vote for me, I want to be your representative," and he is going to be individually anyway, that is slightly different from saying, "Vote for Jones, but if you don't like Jones there will be a Liberal representative because there is a broader Liberal list." When you vote in the regional thing you are voting for a party; when you vote in the constituency you are voting for a specific person.

Stephen Brooks: As I said, the additional Member system is not ideal. To remind ourselves why we have it, in terms of going back to exclusively first past the post—where we were in the late 1990s when we were debating devolution—it is pretty much accepted that Plaid Cymru and the Liberal Democrats would not have supported any kind of Labour legislation or the subsequent referendum had the Assembly not had some degree of proportionality within it. Again, I understand that sometimes people do not particularly like the system, and it is born of a compromise, but it was a necessary compromise to get devolution.

Just to remind people, if you look at the last Assembly elections in South Wales Central, which comprises eight constituency seats, the Labour party won 49.9% of the vote across the constituencies and won all eight of those constituencies. Just under 50% of the vote won 100% of the seats, so those four regional seats are there to compensate the 51.1% of voters, whose votes, you could argue, were wasted. I do not think any vote is wasted, but it was not reflected in a winner. Yes, you can pinpoint an individual race and say, "I don't like how that candidate operated." You can have ugly situations like Clwyd West, which has happened once out of the 80 times there have been first-past-the-post elections, but ultimately the system overall is working all right.

Q143 Hywel Williams: The temptation to get involved in the theology of the electoral system is enormous, I have to say. The arguments made might be ones for getting rid of the list system as it is now and just having a new form of election for everyone.

From your knowledge, are there any lessons to be learned from what has happened in Scotland, where I believe that dual candidacy is allowed? If memory serves properly, there was in fact a Labour Minister at one time who was the beneficiary of dual candidacy. What is the experience in Scotland? Does the fact that it is a slightly larger body have any bearing on any lessons?

Stephen Brooks: In terms of the lessons from Scotland, there are more party political lessons than constitutional lessons. Although dual candidacy is allowed in Scotland, the Scottish Labour party adopted a policy whereby it said that its candidates would not contest both list and constituency seats. There were some notable exceptions. That was where there were boundary reviews, and they were not entirely certain exactly what the electoral performance was. By and large, Scottish Labour candidates had to choose between a first-past-the-post constituency or a regional list.

What you saw was a swing towards the SNP. The SNP were very successful in breaking the system. Most people anticipated it operating to prevent, if you like, landslides from happening. In effect, what the SNP achieved was that; they breached the wall. The result for Scottish Labour was that it lost a lot of experienced Front Benchers and it lost a lot of Back Benchers who were rising through the ranks. It's to be debated party politically, but on balance I would say that Scottish Labour in Holyrood is probably weaker for having that voluntary policy in place than had it otherwise been the case.

I have an anecdote from something I was involved in. The Scottish parliamentary elections were held on the same day as the alternative vote referendum. One of our activists in Scotland, who was fourth on the regional list for the Scottish Labour party, was at the count wearing T-shirt and jeans, just observing and taking numbers for the AV referendum. He never thought for one moment that he might become an MSP, but somebody pulled him aside and said, "Actually, we have lost so many constituency seats in the region that you have to go home and put a suit on because you are going to be on the stage in an hour."

It does work both ways. There will be some Labour smirks in Wales when high-profile people like Nick Bourne and Helen Mary Jones lose constituency seats and don't get in on the regional list. Equally, it is not kind to any particular party. It can happen the other way, and Scotland is evidence of that.

Chair: We may be veering a little bit from the Bill.

Q144 Glyn Davies: I would like to ask about this. I was one of those who had to go home and take my suit off, as it happens. We talk about Clwyd West to exaggerate the issue, but it perfectly applied in Montgomeryshire. I stood in 1993 and in 2003 in both. I knew perfectly well that the chance of winning in the constituency was pretty remote at the time. The one opportunity you do have is the experience of going out and asking people to vote for you. The position we have at the moment is that 20 Assembly Members, when there is not an open list, are barred from going out to ask people to vote for them. We have 20 Assembly Members who just simply do not ask anybody to vote for them. Do you think that is a healthy position or not?

Stephen Brooks: What concerns us are the trends happening with regional lists and the way the parties handle the election. I think I am right in saying that, at the last Assembly election, the individual names of list candidates were not printed on the ballot paper. I do not think that is particularly healthy. It may be that individual list candidates have something like a personal vote, whether that is through standing in a constituency, from being a local authority councillor or from being a personality or an incumbent. There may be a personal vote, and I think we are losing something by not having the names on the ballot paper. I do not think legislation is needed to address that. Equally, you do not need open lists to do that; you could have it on closed lists.

Q145 Chair: We are slipping behind again. The next question is on double-jobbing MPs. This is where I have to declare an interest, of course, having done it for two years. I am surprised at this being in the Bill. I do not think it is that difficult to get around, especially if

you are the MP and AM for the same area. That is my opinion, but we are not here to listen to that.
What do you both think, and what do you think about the time limit of only eight days if somebody wants to go from one institution to another? What do you think about the fact that it is still possible to be an Assembly Member, a Member of the House of Lords, a Member of the European Parliament or a member of the local council? Is that consistent with banning Members of Parliament?

John Turner: I go back to what the Committee on Standards in Public Life had to say about it. I find it difficult to quarrel with the statement they made two years ago. In terms of your particular question about linkages between the various bodies, the real issue here is one of legislature. We have this place and you have a similar law-making body sitting in Cardiff. There is always that potential for conflict of interest. It becomes even more so if the constituents being represented are different constituents, depending on which place you are sitting in.

Q146 Chair: But if they are the same constituents, surely the interest is your constituents' interest, whether it is Parliament or Cardiff.

John Turner: Indeed. But the problem with that is that you then get into a hybrid situation where you could allow it in some places and not in others, depending on how boundaries are drawn. We all know that boundaries change from time to time.

Q147 Chair: I hear what you say. It is not for me to debate this. Mr Brooks, if Mr Turner is correct and there is an issue about conflicts of interest and legislation, surely that would also apply certainly to MEPs and possibly to councillors. Why single out AMs and MPs? What do you think?

Stephen Brooks: We are sympathetic to the argument that it should be voters who ultimately decide this. If an elector wants one individual to be their councillor, their Assembly Member, their Member of Parliament and their MEP, then why not? At the moment, we cautiously welcome restrictions on double-jobbing, but we are not happy with the time frame in the Bill. That does need to be extended.

Q148 Chair: The eight days?

Stephen Brooks: Yes.

Q149 Chair: What would you put it up to?

Stephen Brooks: It is healthy that there is a two-way flow between the two institutions, so something that would cover a period of time between those elections. If that is a year, then a year, but whatever that might be.

Q150 Nia Griffith: I want to ask for clarification on that. At the moment it says six months, which seems to raise the practical difficulty that, if someone who is now an Assembly Member were elected an MP in 2015, you have that year before 2016, or you have a by-election literally within three months of the purdah period before the next election starts.

Stephen Brooks: I completely agree with you. If the routine difference between a general and an Assembly election is a year, the period of time should be a year to allow that combination—that travel between the two institutions.

Q151 Glyn Davies: I would like to pursue the conflict of interest issue. If it does exist, why doesn't it apply to a Member of the European Parliament and a local councillor? I cannot grasp that. If you can have a conflict of interest between two institutions, why can't you have it between two others? I would like to know a little bit more about that. If you are fighting a seat, you represent the constituency. Your view would not be different if you were representing one institution. There is the idea that you are sitting in a Parliament and you agree with everything; I disagree with quite a number of issues in this Bill and I shall say so. That is what people do. Whether I was in the Assembly or here, I would be saying the same thing. Just explain what this conflict of interest is.

Geraint Davies: The whole issue of devolution is that health and education will be decided in Cardiff and not here, yet if you are representing that area there is no conflict of interest because we don't do the health and education.

John Turner: My problem comes with the point that the Chair raised, and I added to, which was to do with boundaries. If you take your example of a local authority that is coterminous with a parliamentary boundary, you are not going to have that problem. In my previous life I was deputy chief executive of a city council. We had a council of one persuasion and two MPs of other persuasions. You only had to sit in meetings to see how that conflict would represent itself. It was largely because, in the southern constituency, there was just a small part of the city, and a much larger part of the rural area came from a different political persuasion. At times I felt sorry for the Member of Parliament, because they were on a pretty marginal majority and they had to be very careful what they said about matters of dispute between what I might call the rural council and the city council. That played itself out into all sorts of difficult practical issues. That will always be the case where boundaries cross constituencies.

Q152 Chair: That is if you have different boundaries. An MP and an AM with the same boundary do not have that problem. An MEP is always going to have a different boundary from an AM or an MP.

John Turner: Yes, but the advantage with an MEP—I am not now talking in favour of closed lists, before Stephen gets excited about this—is that there are seven, eight or nine of them and it is very easy for an MEP to say, "Actually, I would much rather you talked to my colleague about this particular matter," for whatever reason. I think you get the three things: electoral systems, constituency boundaries and the potential of not being able to be in two places at the same time. That is why I come to the view I do.

Stephen Brooks: For the Electoral Reform Society, it is more a conflict of time than a conflict of interest, so with the capacity of the National Assembly so small, as Professor Wyn Jones discussed on Tuesday, in our opinion, you are effectively talking about 42 Back Benchers. I can envisage situations where you will have your Chief Whip here on the phone screaming at you to come down for a vote that is going to be close, and at the same time you might want to speak in a debate in the Senate about the closure of a district general hospital in your constituency. The pattern of business in both institutions seems too similar. Given that the capacity of the National Assembly is small, in our view, it just feels like there would be too much conflict of time for a Member who was permanently double-jobbing.

Q153 Glyn Davies: I want to ask you a question about fixed term. Clearly we have a fixed term in both institutions. One is four years and one is five. The proposal is that it increases to five. A lot of people—I would be one of them—think that four years is a suitable fixed term for a Parliament. That is what it is around the world in most places and I think it is a suitable term. What we are proposing is a five-year term for the Assembly. What is your view on that? Does it have to be a five-year term so they are not on the same day? What are the implications of them being on the same day?

Stephen Brooks: In principle, we obviously support fixed-term Parliaments. I share your feeling that five years just feels a little bit too long for a Parliament. Historically, if you look back, Parliaments that have lasted five years have tended to be at the end of a single party's Administration where the Prime Minister is stretching it out. Historically, the precedent has been that five-year Parliaments are unusual.

There are two points. If this place remains on five-year fixed-term Parliaments, it probably makes sense for the Assembly to move to five-year terms, although I still have those lingering doubts. It just feels a little bit too long to have a programme of government and a fresh mandate from the people. There might be a common-sense argument to say that the two should be the same.

In terms of holding elections on the same day, in some respects that is almost unavoidable given the number of public elections we now have. In terms of the order of elections, it is important that elections for the National Assembly for Wales and UK general elections are not held on the same day. It is important that both institutions are given their individual time in the sun for voters to consider what the issues are, which party they want to represent them and which party they want to form a Government. Those two things should have space between them.

Q154 Glyn Davies: Aren't you diminishing the significance of the European elections?

Stephen Brooks: I would not diminish them. Every election is important.

Glyn Davies: It sounds like it.

Stephen Brooks: If you look at the research, there is a clear order in the public's mind of the importance of public elections, and that is reflected in turnout. The UK general election to this place seems to be No. 1, the National Assembly seems to be No. 2 overall in Wales, and the others fall below that, so it makes sense for Parliament and Assembly elections to be on different days.

Q155 Chair: Mr Turner, you have organised a lot of elections. Do you see any problems with having them on the same day?

John Turner: Yes, I do. I also agree entirely with what Stephen said. There is a great danger in putting together what I would call national elections to different bodies on the same day. The fact that the European cycle is five years and this place's cycle is five years absolutely screams for five years for the other.

If everyone is happy to reduce everything to four years and then run them in sequential years, that is absolutely fine. The problem if you do it in different periods is that you are going to end up at some point in time with a super-Thursday or whatever it is, with six elections all on the same day.

Glyn Davies: And police commissioners.

John Turner: Yes, I was thinking of police commissioners. That was going through my head as a classic case of how this will compound itself in the fullness of time.

I would come down very much on the proposition in the Bill for five years. You also have to have regard to the voter in this. If you are asking voters to turn out in three or four different electoral systems and cast their vote, there is the danger that they will become confused. There is more danger though that the primacy of one place—this place—can affect the vote in the other elections, and that can lead to unintended consequences.

Q156 Glyn Davies: We don't do five years in this place. Governments can collapse for various reasons and there has to be an election. What you are suggesting is that, if it suddenly collapsed, we would then have to change the Assembly term again to match the new term. If it collapsed, there would have to be an election. Clearly, there would be a five-year term running from that date, which would then clash with the—

John Turner: My recollection of the new legislation on fixed-term Parliaments for this place is that, even if there is a collapse, the cycle remains the same.

Q157 Glyn Davies: So we have another general election.

John Turner: It could well be, yes.

Glyn Davies: I didn't know that.

John Turner: I may be wrong, but that is my memory of the debate.

Q158 Hywel Williams: My questions are about the referendum. If political parties are elected on a manifesto pledge to devolve income tax, for example, do you think it is necessary for there to be a referendum on something like the partial devolution of income tax if it has already been tested at an election?

Chair: Mr Brooks, you must believe in lots of elections.

Stephen Brooks: Don't mention the referendum. Advocates of a referendum and people who say a referendum is not required can cite constitutional precedents to back up their argument; because we do not have a single codified written constitution we can have this debate and go round. One argument is that, because the people of Scotland were offered a referendum on income tax, the people of Wales should have the same. The other side of the argument is that having some kind of tax-bearing powers instils discipline in Government. It is good in terms of accountability and good governance; therefore, how can that possibly be optional? We do not necessarily take a view on either side, but I am real to the politics of it, which is that it seems likely, if not more than likely, that if we do get income tax powers in Wales it will be following a referendum.

Q159 Hywel Williams: What do you make of the argument we heard on Tuesday that both the poll tax and the council tax were brought in without referendums? Those were substantial and highly controversial changes.

Stephen Brooks: We can say that the police and crime commissioners were brought in without a referendum. Does the logic follow that you would question their political mandate? There are discussions that go on about having fair votes for local government in Wales and England by moving towards STV. Some people say that, if you do that, you need some kind of referendum, but we have revolutionised the governance of police authorities without a referendum.

Q160 Hywel Williams: What do you think of the model in the Government of Wales 2006 Act, which states that you have to have a two-thirds majority in the Assembly and agreement from both Houses of Parliament? Is all that appropriate, or should the Assembly itself just have a referendum if they want it, with a simple majority?

Stephen Brooks: There is almost a wider issue in terms of how the National Assembly enacts constitutional change. Two thirds comes from the figure required to alter the Standing Orders of the National Assembly. One of the things that we called for—this Bill might be a vehicle for it—is the devolution of the electoral arrangements of the National Assembly to the National Assembly. We said that if that were the case we would be looking for a two-thirds voting majority in the National Assembly. I think Roger Scully said three quarters. It feels appropriate that two thirds is the right number.

Why the difference? Why should it be that this place can enact a referendum with a simple majority and the National Assembly needs a two-thirds majority? That is a fair enough question. It is more interesting when the Assembly has voted for more proportionality, using a slightly fairer voting system than this place. At the moment, we would say that there are greater checks and balances here than there are in the National Assembly. There are two Houses here and there is only one House in the National Assembly. It is entirely feasible, as we have seen in Scotland, that one party can sweep to victory and have an overall majority in the National Assembly and use that to push through constitutional change, which perhaps they have a mandate for but perhaps they don't, and all the other parties are completely against. Two thirds seems about right as a check and balance on the Senate.

Q161 Hywel Williams: There is one other thing. I might be the person who has voted most in referendums, given that I voted on Sunday closing a number of times. It is a nice Welsh precedent to point to.

A more recent example was the 2011 referendum. In relation to how that was conducted and the implications of it, are there any implications for the referendum on tax-varying powers? I am just thinking in terms of turnout and enthusiasm.

Stephen Brooks: The 2011 referendum on the alternative vote or the Welsh powers?

Hywel Williams: The Welsh powers.

Stephen Brooks: The message from both referendums is to have a solid clear question that political party activists—the people who are going to be out knocking on doors—understand. From the electorate's point of view, they should have a good enough reason to come out—a referendum on a subject where you can quite clearly see what the differences would be if you voted yes or no. If you look at the Scottish independence referendum, it is quite clear what would happen if you voted yes or if you voted no. Similarly, if there was a European Union membership referendum, it is quite clear what would happen as a result.

To be honest, I am not entirely certain it is as clear-cut with income tax, or certainly how it is couched in the Bill at the moment, and whether that would be as black and white an issue for the electorate to understand and feel motivated to get involved with. The same is probably true for the alternative vote referendum. One of the weaknesses of that was that it was not clear what the difference would be if you voted one way or the other. Politically, it seems almost inevitable that if we were to go down that road a referendum would be needed, but I would have anxieties as to whether the question, the campaign around it and the debate leading up to it would be sufficient to engage the public and mobilise them to turn out.

Q162 Geraint Davies: Mr Brooks, would you be happier if the Bill had a situation where the entire election process went to a list system? Obviously, that would be an issue for democracy and accountability, with the BNP and the like. Secondly, in terms of the comments about the second Chamber, do you agree and do you think there should be a House of Lords for Wales as well? Maybe we could all have gold cars as well. What do you think?

Stephen Brooks: I do not know how much time I have, but I can answer both questions.

Geraint Davies: Forget the question about gold cars; just the House of Lords and the list.

Stephen Brooks: The reason why we do not support lists as our preferred system, and the reason why we certainly would not support a national list for Wales in electing AMs exclusively from a national list, or indeed moving from five regional lists to one national list, is that I think you break the constituency link. Perhaps the only strength of first past the post is that it delivers a strong constituency link between the elected representative and the electorate.

We may disagree on this, but we think that the single transferrable vote, where you have constituencies with three, four or five representatives, preserves enough of a constituency link whilst at the same time delivering some element of proportionality. You are right that a list would ultimately deliver the greatest proportionality, but for us it is a trade-off between the constituency link—that relationship between the elector and the elected—and overall proportionality. That is why we settled on STV.

People raise the issue of national lists. If you crunch the numbers in terms of how those 20 seats would be redistributed if you had a national list, both the Conservative party and Plaid Cymru go down in representation, and one would expect to see UKIP, the Greens and possibly the BNP there. I think it is politically unlikely that we would ever move to that, but from a principle standpoint it totally moves away from the British tradition of having a constituency link.

Q163 Geraint Davies: And the Lords?

Stephen Brooks: If you had a fairer voting system for the National Assembly you would not need that kind of level of check and balance. I think True Wales calls for a second Chamber.

Chair: We are a little bit beyond the draft Bill at the moment. On that note, I shall call the meeting to an end. Thank you both very much indeed.