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Sefydliad Materion Cymreig
Institute of Welsh Affairs

**A PERIOD
OF
DE-STABILISATION
MONITORING**



Cynulliad Cenedlaethol Cymru
The National Assembly for Wales
MAY TO AUGUST 2001

**Edited By
John Osmond**

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SUMMARY

Events and disputes placed the Administration on the backfoot during this period producing an atmosphere of instability. In early July, amid mounting press and media coverage and Opposition demands for his resignation, the Deputy First Minister Mike German ‘stood aside’ from the Cabinet while a police investigation continued into his tenure as Head of the Welsh Joint Education Committee’s European Unit during the mid 1990s. Culture Minister Jenny Randerson took his place as Acting Deputy First Minister, while First Minister Rhodri Morgan assumed temporary responsibility for his Economic Development portfolio. Other problems included a heightening of the foot and mouth outbreak with a mass sheep cull on the Brecon Beacons; a row with the internationally acclaimed architect Richard Rogers over the costs of his design for the new Assembly Chamber; and an escalating dispute over the issue of English in-migration into rural Wales threatening the integrity of Welsh-speaking communities.

This last dispute invaded the National Eisteddfod, held this year in Denbigh in the first week of August, and overshadowed much of the Assembly’s activities during the quarter. Midway through the Assembly’s first four-year term the question is frequently asked, “What has the Assembly done for you?” First Minister Rhodri Morgan uses every opportunity to respond as follows: ‘Free school milk for infants, money for improved school buildings, free prescription charges for under-25s, bus passes for the elderly, and free admission to museums and galleries.’”

The media has a different agenda, however. And it was one that the establishment figure John Elfed Jones knew he could stimulate by likening the impact of English in-migration into rural Wales to the effects of foot-and-mouth disease. This re-ignited a heated and ill-tempered language debate in and around the Assembly that had been simmering since the general election. Inside the Chamber it had been prompted by a submission made to the Education Committee by a leading academic, Dafydd Glyn Jones, on the case for a Welsh-medium College within the University of Wales. This provoked such fundamental questions as claims of censorship around submissions made to the National Assembly, and allegations of anti-English sentiment and racism. The ensuing debate exposed widely differing views on the nature of Wales and Welsh identity held by the Labour and Plaid Cymru members of the Committee.

The death of the Labour AM and Chair of the Economic Development Committee Val Feld in July provided a rare moment of truce and consensus between the parties. She had been a popular figure and reminded AMs of the optimism and sense of hope that had accompanied the inauguration of the National Assembly. The forthcoming by-election in Swansea East, expected to be held on 4 October, will be a test for the Coalition Administration and for the challengers, Plaid Cymru. If Labour fail to hold the seat it will place an added strain on the Administration already destabilised by the Mike German affair. If Plaid Cymru fail to do well it will accentuate a *Western Mail*-led debate about the calibre of their leader Ieuan Wyn Jones who was severely tested and, for some in the party, found wanting during the General Election campaign.

1. THE ADMINISTRATION

John Osmond and Nia Richardson, IWA

(i) The Future of the Coalition

In early July, amid mounting press and media coverage and Opposition demands for his resignation, the Deputy First Minister ‘stood aside’ from the Cabinet while a police investigation continued into his tenure as Head of the Welsh Joint Education Committee’s European Unit during the mid 1990s. The Administration made Herculean efforts to prevent this occurrence, claiming that the police were not ‘formally’ investigating the Deputy First Minister’s affairs but rather seeking to establish whether there was a prima facie case for an investigation. In response to a question from the Plaid Cymru leader Ieuan Wyn Jones in May the First Minister Rhodri Morgan had stated:

“If the police decide that there is a case to answer and start a formal investigation into the matter, then Mike German has said that he would step down and I would insist on that.”¹

Press reports in early July indicated that this was indeed the case.² However, in a debate on a Point of Order relating to the issue in the Chamber the Business Manager, Andrew Davies, attempted to hold the line, insisting that though the police were pursuing inquiries a formal investigation had yet to be launched. Consequently the position had not changed and there was no need for Mike German to stand aside.³ However, Davies’ position was not helped by the First Minister choosing to leave the Chamber as the debate began, and returning immediately it was over. He claimed later that he had left to take a pre-arranged telephone call. However, the timing of his leaving and re-appearance coinciding with the duration of the debate failed to convince Opposition members and, indeed, unsettled Labour backbenchers as well. These events generated intense speculation in the Assembly during the course of the day, leading Mike German himself to come to the conclusion that he had no choice but to step aside. As he put it in his letter to the First Minister, dated that day:

“The continuing drip-drip effect of unsubstantiated leaks, allegations and speculation regarding my former employment at the WJEC, is now having an adverse impact upon the work of the Assembly, and the successful continuation of the Partnership Government that is delivering so much for the people of Wales. Whilst I recognise that the police’s position has not changed – there is still no prima facie case for formal action – I am increasingly frustrated that our political

¹ Assembly Record, 22 May 2001

² For instance a Press Association report, 4 July 2001

³ Assembly Record, 5 July 2001

opponents should continue to seek to exploit this situation in order to destabilise the Government of Wales.”⁴

Mike German went on to nominate his fellow Liberal Democrat Cabinet member Jenny Randerson, the Minister for Culture, as Acting Deputy First Minister. In his reply Rhodri Morgan said it was never his intention that Mike German should have to step aside at such an early stage in the police investigation but accepted that media pressure had moved the situation on, adding:

“I am confident that this is temporary and I hope it will not affect the capability of the Partnership Government to deliver its programmes. I hope the police conclude this investigation soon so as to permit your return to Cabinet and the resumption of your positive contribution to our Government.”⁵

How soon the police would reach a conclusion rapidly emerged as a key question concerning the future of the Coalition. Rhodri Morgan assumed responsibility for the Economic Development portfolio in the Cabinet in addition to his duties as First Minister, prompting Opposition criticism that this would be unsustainable for very long. Labour backbenchers were reported by the *Western Mail* as judging that even if he returned to the Cabinet, his involvement with European programmes at the WJEC should preclude him from the Economic Development portfolio and its engagement with the Objective 1 programme. The paper reported the views of one backbench Labour AM:

“There’s a serious point about whether he can come back into economic development. I don’t think he can. It’s the ‘damaged goods’ appearance even if there’s no question about him being dishonest.”⁶

Allegations against Mike German had first emerged in October 2000, a few days after the Partnership government Coalition deal had been announced. The allegations focused on his use of corporate credit cards, restaurant bills and other expenses while overseas on business as Head of the WJEC’s European Unit. This was the beginning of a bitter and very public feud between Mike German and the WJEC, led by its Chairman, Jeff Jones, the Labour leader of Bridgend County Council. In response, Mike German claimed that the allegations were part of a politically-motivated smear campaign led by the local Labour councillors who dominate the WJEC’s governing body to discredit him in an effort to destabilise the coalition deal.

It seems likely that part of the row was due to the WJEC operating in a grey area between the private and public sector. Activities that might be considered normal, or at least more commonly practised within the private sector, are more difficult to accommodate within the public sector. Thus, for example, there were disputes about Mike German undertaking visits on behalf of the WJEC to foreign capitals such as Vienna at a time which would

⁴ Administration Press Release, 5 July 2001

⁵ *Ibid.*

⁶ Rhodri Hornung, ‘German could take on fresh portfolio’. *Western Mail*, 25 July, 2001.

allow him to attend a political conference in the city in 1996.⁷ In any event, the WJEC decided to bring in independent auditors to investigate the Unit. Mike German agreed to co-operate and answered 130 questions on his period as Head of the Unit. The report was completed by the end of April 2001 and subsequently handed by the WJEC to the police.

A few days before he was forced to stand aside from the Cabinet Mike German issued an attack on the character of the minority Labour Administration that had operated within the Assembly during the 18 months prior to the creation of the Coalition in October 2000.

“Once a picture of a failed institution has been planted in someone’s mind it is hard to erase. For 18 months the Assembly stumbled from one crisis to another offering little to the people of Wales. We had a minority Labour administration attempting to kick start a new era for Welsh politics with little vision and no policies geared to Wales. There was infighting created by the untimely departure of an embittered Welsh Secretary and a First Secretary without a sufficient mandate from the Welsh people.”⁸

Unsurprisingly, the pronouncement of these views did little to consolidate support for Mike German amongst Labour AMs, especially those most hostile to the Coalition arrangements. In the wake of his standing aside, German took the opportunity of a Welsh Liberal Democrat conference to further attack what he termed the old Labour political establishment within Wales which, he claimed, was using his problems in an effort to destabilise the Coalition:

“PR, devolution and coalition politics have rocked the past way of doing things in Wales. The old order is crumbling. And – make no mistake – the old order is angry. Those who for decades have governed their cosy local fiefdoms, their perpetual one-party city states, these are the people that have most to lose from reform, from the new politics of Wales. These are the people who most hate the Assembly and want to destroy those who want to make it work. Are you surprised that they are throwing everything they have at us?”⁹

Nonetheless, the longer the police inquiry into his affairs carries on the more difficult his position and that of the Coalition will be. In addition there is an ongoing investigation by the European Commission Anti-Fraud Office, OLAF, into the spending of European funds by the WJEC. It has been claimed that the WJEC European Unit may have to pay up to £1m in grants to which the organisation either was not entitled or failed to spend properly. There has also been a suggestion that Jenny Randerson, confirmed by Rhodri Morgan as Acting Deputy First Minister, might herself become implicated in the affair. For instance, the auditors report commissioned by the WJEC names her as attending the same political conference in Vienna as Mike German in the summer of 1996. Flights and hotel bookings were made jointly in the name of both and processed through the WJEC,

⁷ See the previous IWA report, *Farming Crisis Consolidates Assembly’s Role: Monitoring the National Assembly March to May 2001*, pages 82-87, for a fuller account of these matters.

⁸ ‘German stokes fire of warfare in coalition’, *Western Mail*, 2 July 2001.

⁹ Speech to Welsh Liberal Democrat Conference, Llandrindod Wells, 21 July 2001.

according to the auditors' report. Jenny Randerson vigorously denied any wrongdoing, saying her tickets had been forwarded to her for payment.¹⁰

The summer recess provided a hiatus and some relief, but there seems little prospect the issue will be resolved by the time the Assembly returns in mid October. The WJEC reports submitted to the police are lengthy and complex and will take some time to unravel. Moreover, given the high political profile of the case it is possible that any recommendations will be referred to the Director of Public Prosecutions before a decision whether to proceed is taken. All this may take the process into 2002, providing the Administration with continuing problems over Mike German's position and the future of the Coalition.

(ii) Dealing with the Foot-and-Mouth Outbreak

Signs that foot and mouth disease was not about to be extinguished by the summer were seen in early June when the number of cases began to increase once again, particularly in Powys where a month had passed with no new cases. The Administration continued to follow the same policy of testing and culling. However, in August positive results in the free roaming sheep on the Brecon Beacons brought matters to a crisis point and led to a change in policy. On 9 August the Administration announced a new programme under which sheep on the Brecon Beacons would be culled *before* the results of blood test were received. The Minister was concerned that the cull was taking too long, adding to the possibility of the disease spreading.

The emergence of foot and mouth in the free roaming sheep on the Brecon Beacons also brought on new calls for the Administration to implement a vaccination programme. In an open letter to First Minister, Rhodri Morgan, Brecon Beacons National Park Chairman, Brian Powdrill, and Chief Executive Christopher Gledhill urged the use of vaccination,

“We appreciate vaccination is not a panacea, but there is a strong body of evidence to indicate that where large numbers of sheep on the open hill are involved, culling is not necessarily the best solution. This National Park is one of the most important parts of Wales in terms of its landscape, wildlife and tourism economy. The current policy is threatening all three and alternatives must now urgently be considered.”¹¹

However, the Rural Affairs Minister Carwyn Jones maintained that vaccination was not the best option since it would jeopardise farmers' hopes of exporting in the future.

¹⁰ 'German's stand-in named in the same audit report', *Western Mail*, 7 July 2001.

¹¹ *Western Mail* 27 July 2001-08-17

Launch of the Assembly's Rural Recovery Plan at the end of July did little to appease a feeling of desperation that was spreading through the communities of rural Wales. The Plan was supported by funding of £65m including:

- A £9m Rural Business Recovery Fund concentrated on the nine rural local authorities.
- £4.2m of immediate help for marketing and development for tourism businesses.
- £5m for new integrated tourism and environmental projects.
- £5m for new rural community regeneration projects.
- £5m for a new enterprise grant for small and medium sized firms.
- £11m to help farm business development including farm woodland and biomass and the agri-food sector.
- £1m to help promote local shows and events.
- £3m to support measures to tackle rural stress.

However, the general feeling in the rural community was that the aid was not enough and that it should have been delivered several months earlier. 'It's too little, too late'¹² was how a front-page headline of the *Daily Post* described the package which had been worked out by members from the Assembly's Rural partnership. Trish Armstrong of Powys Rural Business Campaign complained that the package had come too late to save the 150 businesses that had already closed down in Powys by the end of July:

'We have been asking for help since the beginning of March and the government has done absolutely nothing to help small businesses survive.'¹³

Carwyn Jones defended the Administration saying,

"If we had done it earlier, there wouldn't have been as much money available."¹⁴

There were also the inevitable concerns that £65m was far from being enough, particularly in Powys where most of the foot and mouth cases in Wales had been concentrated. A spokesman from the Council stated that they had only received £2.4m as opposed to the £10m which they had asked for:

"The £2.4m is totally inadequate to respond to the breadth of hardship faced by Powys businesses."¹⁵

Hugh Richards, President of the National Farmers Union Cymru also commented that £65m was simply not enough:

¹² *Daily Post* 27 July 2001

¹³ *Western Mail* 26 July 2001

¹⁴ *Western Mail* 27 July 2001

¹⁵ *Western Mail* 27 July 2001

“The financial loss to Mid Wales from the cancellation of the Royal Welsh Show was put at £25m alone. In the first year just £25m will be spent across nine counties in Wales - it simply isn't going to be enough to stop rural businesses going under.”¹⁶

First Minister Rhodri Morgan responded to the criticisms by acknowledging that the package could never meet everyone's expectations:

“It doesn't meet 100 per cent of the shopping list we were given by the other stakeholders. It never will, but we believe it goes a long way towards meeting the kind of demands that have emerged.”¹⁷

Amongst AMs was unease that the aid package had been announced during the recess depriving the Assembly of an opportunity to scrutinise it. Elin Jones, Agriculture Spokesperson for Plaid Cymru had previously warned that,

“If Carwyn will not bring the statement forward we will be asking for the Committee to be reconvened next week or the week after to scrutinise the package.”¹⁸

In the event the Committee was reconvened on 31 July to discuss the package and the crisis in the Brecon Beacons. This was the second time it had been reconvened during recess to discuss the foot and mouth crisis, the first during Easter recess. Members of the Economic Development Committee were invited to attend as well. Both the Deputy Economic Development Minister Alun Pugh and Rural Affairs Minister Carwyn Jones were present. Members expressed concerns that the package was insufficient, especially given the new problems in the Brecon Beacons.

The foot and mouth crisis caused a public feud between Peter Rogers AM, Conservative spokesperson on Agriculture and a farmer himself, and the Minister for Rural Affairs, Carwyn Jones. This led to Carwyn Jones formally reporting the conduct of Peter Rogers to the Presiding Officer. In May Peter Rogers complained that the Minister had performed a U-turn on his contiguous cull policy. This arose, he claimed, as a result of a decision not to bring injunctions against two farmers who were refusing to have their animals slaughtered despite the fact that their land bordered on infected premises. Rogers told the *Western Mail*:

“Carwyn Jones has constantly told us that the contiguous cull was absolutely necessary to control foot and mouth and yet now there appears to have been a change in policy.”¹⁹

Then in June Rogers threatened to sue Carwyn Jones over delays in compensation. Peter Rogers, whose animals on Anglesey had been slaughtered because of the disease, accused

¹⁶ *Daily Post* 27 July 2001

¹⁷ *Western Mail* 27 July 2001

¹⁸ *Western Mail* 17 July 2001

¹⁹ *Western Mail* 24 May 2001

the Administration of dragging its heels in distributing compensation to farmers in order to gain interest on the money. He had only received his compensation following a three-month delay and a solicitor's letter to the Agriculture Department. Threatening to take his case to the small claims court, he said the interest accrued on the compensation fund should be distributed to the farmers:

“Every time you talk to Carwyn Jones about delays to compensation he blamed the Ministry of Agriculture, Fisheries and Food, the Intervention Board or Brussels. He's there as Minister for Rural Affairs. He should be representing people and making sure cash flows aren't stopped. He has no idea how business operates. I want to highlight the desperation that farmers and businesses across Wales have been subjected to unnecessarily.”²⁰

An Assembly Spokesperson however rejected any suggestions that interest payments should also be made”

‘That is something we wouldn’t do. Where do you draw the line on that?’²¹

Whilst Peter Rogers AM has been particularly critical of Carwyn Jones, the Farmers Unions have on the whole been complimentary of his performance. He was described as “quite an exceptional Minister”²² by Hugh Richards, the President of Farmers Union Wales.

Nonetheless, frustration at the constraints on the Administration’s ability or willingness to act during the crisis, prompted leading voices in the farming industry to call for the Assembly to be given more powers. For instance Alan Morris, of the Farmers Union Wales declared:

“Things may have been speeded up a bit if the Assembly had greater powers to actually tackle the disease. It hasn't got enough powers. More powers need to be devolved from London to the Assembly.”²³

Glyn Davies, Conservative AM, also a farmer and Chairman of the Rural Affairs Committee also made repeated calls for the Assembly to have enhanced powers:

“To a large extent the Minister and the Committee don't have the freedom to introduce real change in policy. Action has to be taken at the member state level. We need a situation where the Minister is able to take more decisions at the Welsh level.”²⁴

Carwyn Jones himself stated several times that if the Assembly had had the same powers as Scotland on movement licences and culling livestock it would have “ironed out

²⁰ *Western Mail* 24 July 2001

²¹ *Ibid.*

²² *Western Mail* 3 July 2001

²³ *Western Mail* 3 July 2001

²⁴ *Western Mail* 3 July 2001

complications.”²⁵ The *Western Mail* insisted that the relationship between the National Assembly and Westminster during the crisis should be examined as part of a public inquiry into how the disease had been dealt with:

“A proper inquiry would examine the relationship between the National Assembly and Westminster. The crisis has not been handled flawlessly in Wales; far from it. Remember Epynt. Yet Rural Affairs Minister Carwyn Jones is generally thought to have performed creditably. The question is, would the crisis have been handled better had he been allowed more freedom?”²⁶

Although the UK Government has rejected calls for a public inquiry, opting instead for an independent inquiry, Carwyn Jones had always been relaxed at the prospect of a public inquiry in Wales. However, despite earlier suggestions that Wales could establish its own inquiry, Carwyn Jones made it clear that an additional inquiry in Wales would not be necessary,

“I recognise that many in Wales have called for a full public inquiry into the handling of the FMD epidemic. A formal judicial inquiry would take a very long time to report. What is needed is a forward-looking assessment of issues that is delivered quickly, that identifies lessons to be learnt and recommendations for action. That is the remit for the Inquiry.

“The Inquiry team will be reporting formally to the UK Government and, equally, to the National Assembly Administration and the Scottish Executive. Given the respective responsibilities of the National Assembly and the former Ministry for Agriculture, Fisheries and Food, the story of foot and mouth in Wales is inextricably bound up with the wider GB context. I will be asking the team to give full attention to the Welsh aspects and the National Assembly's working relationship with DEFRA and the UK Government.”²⁷

(iii) The Welsh Language and In-Migration

The survival of the Welsh language, an underlying policy preoccupation which hitherto had not featured largely in Assembly debates, forced itself to the top of the agenda in August. As a previous report in this series, the question of English immigration into rural Welsh-speaking Wales was first articulated by a little-known Plaid Cymru councillor, Seimon Glyn, chairman of Gwynedd County Council's housing committee, in January. This led to a furious row between Plaid Cymru and the Labour Party with accusations of ‘racism’ flying about in the run-up to the June General Election.²⁸

²⁵ *Western Mail* 3 August 2001

²⁶ *Western Mail* 2 August 2001

²⁷ Administration Press Release 9 August 2001

²⁸ See the previous IWA report, *The Economy Takes Centre Stage: Monitoring the National Assembly December 2000 to March 2001*.

In August the issue was re-ignited when a more substantial figure in Welsh political and economic life, John Elfed Jones, likened the impact of in-migration into rural Wales to the effects of foot-and-mouth disease. Writing in the August issue of the Welsh-language monthly *Barn* (Opinion) he declared:

“... there is another foot and mouth disease which is unintentionally changing the way of life of rural Wales – and there is no sign that either the Government or the Assembly is prepared to restrict the increasingly ruinous impact of this particular disease. I’m referring to the migration into rural Wales and the inevitable effect of this type of movement. Setting foot into Welsh communities means, more often than not, that house prices rise exponentially so that local people cannot afford to buy property.

“And from the mouths of immigrants comes a language familiar to everyone in rural areas – a foreign language. Soon, unintentionally, almost without anyone noticing, the language and way of life of our communities will have changed forever.

“Whereas it was easy for the Government and Assembly to take effective steps to limit the ruin of the agricultural foot-and-mouth, it seems there is nothing our politicians can do to stop the ruinous effect of the human foot-and-mouth ...”²⁹

As undoubtedly was calculated, this intervention lit a smouldering fuse that exploded into a furious debate during the week of the National Eisteddfod in early August. That these views and the manner of their expression could be attributed to a man of great stature in Welsh life put the Administration into something of a quandary. John Elfed Jones is a former Industrial Director at the Welsh Office (1979-82), Chairman of Welsh Water (1982-93), Chairman of the Welsh Language Board (1988-93), Chairman of HTV Wales (1990-96) and Chairman of the National Assembly Advisory Group (1999-8-9) that established its Standing Orders. First Minister Rhodri Morgan denounced what he described as a “misuse of language”:

“To compare English people buying property from Welsh people with the outbreak of foot-and-mouth disease is just the height of absurdity. It was a purple passage of prose which he probably regrets writing now, I am sure.”³⁰

Coincidentally at the Eisteddfod Rhodri Morgan launched a new Welsh Labour consultation document *Culture, Sports and the Welsh Language*. This contains a section that directly addresses the concerns raised by John Elfed Jones:

“We remain sceptical that plans focussing on stopping non-Welsh speakers moving into certain geographical areas will do much to protect far less promote the Welsh language. Welsh Labour believes that a sustainable future for Welsh language

²⁹ The *Western Mail* carried a full translation of the article on 8 August.

³⁰ *Daily Post*, 8 August 2001.

communities can only be provided by access to a sound and stable economic future. The future of the Welsh language in its traditional strongholds remains linked to the co-ordination and regeneration of the rural economy and the use of the European Structural Funds to help create that sustainable future. We cannot expect to maintain a healthy future for the language in economically depressed areas where there is a large incentive, in particular for young people, to get out and get on ...

“ ... The National Assembly Culture Committee is currently conducting a policy review of the Welsh language. Through this we hope to generate cross-party consensus on how best to promote the Welsh language.”

Undeterred, a few days later John Elfed Jones returned to the fray. Although apologising for any gratuitous offence his reference to the foot-and-mouth outbreak may have caused, writing to the *Western Mail* he observed:

“It is all very well for politicians to proclaim that they are well aware of the problems, but if they take no steps to solve them they are like the captain of the ship that is sinking who declares that he’s aware that the ship is going down but does nothing to launch the lifeboats.”³¹

This prompted the Liberal Democrat Minister for Culture, Jenny Randerson, to respond rejecting the charge that nothing was being done:

“... local authorities are already using their powers under planning law to ensure the provision of affordable housing for local people. Furthermore, in making rural housing one of its priorities, the Assembly Government has introduced a ground-breaking scheme to enable local people to buy into the housing market in rural settlements.

“The language dimension does set Wales apart from the rest of the UK, which is why upon entering the Partnership Government, Welsh Liberal Democrats and the Welsh Labour Party established a dedicated Culture Ministry with responsibility for the Language.

“My first action as Minister was to set up an in-depth, cross-party investigation into the problems facing the Welsh Language, which will have lasting implications for Assembly policy across the board. This will come forward with proposals for immediate action early next year.”³²

(iv) New Assembly Chamber Placed on Hold

³¹ *Western Mail*, 14 August 2001

³² *Western Mail*, 15 August 2001

In mid July the Assembly was thrown into some disarray when it learnt that the future of its new debating chamber was in doubt, due to alleged escalating costs attributed by officials to the architects but vigorously refuted by them. This led to an unseemly row between the Administration and the architects, conducted largely through the media.

Building work on the foundations for the new Chamber, designed by the Richard Rogers Partnership, began in March after protracted negotiations and debates resulted in a cap of £26.6 million being placed on its costs. However, in a surprise announcement Finance Minister Edwina Hart told the Assembly on 17 July that the Richard Rogers Partnership had been sacked from the project after costs appeared to be rising to more than £40 million. There then followed days of mounting controversy with press and media reports carrying claims and counter-claims about the true position.

Edwina Hart said the project would be put on hold while competitive tenders would be sought, based on the Richard Rogers design, with the building either being leased to the Assembly or sold for an agreed sum. This meant there would be inevitable delays, with completion of the building now extending well beyond the planned 2003 date. The Richard Rogers Partnership issued a statement strongly attacking the Administration for presenting a misleading position:

“The Richard Rogers Partnership rejects being made a political scapegoat for a catastrophic failure properly to manage the project ... RRP’s advice was consistently ignored. It is plainly untrue for the Finance Minister to assert that RRP underestimated the costs.”³³

Interviewed on radio and television Edwina Hart refused to go into detail on the financing because of alleged ‘commercial sensitivity’. In a Press Release she stated:

“I do not want to dwell on the recent problems which have beset our relationships with the Richard Rogers Partnership.”³⁴

However, some elucidation was provided by Richard Rogers himself, interviewed on BBC Wales’ Dragons Eye political programme. He claimed that the original cost of the building, between £13m and £14m, still applied and he was willing to pursue the project on this basis. But this cost only related to the shell of the building, and moreover was the only part of the project which the Richard Rogers Partnership had contracted with the Administration to undertake. He said the Partnership had been kept in the dark about the remainder of the costs, which had first risen to £26m and now by as much as a further £15m. These costs were for the contents of the Chamber, its fitting out, communications systems and offices, for which the Administration itself was entirely responsible.

These points remained uncontested and unanswered. It later emerged that, as a result of the Richard Rogers’ suggestion that he could still build the Chamber within a price limit of £13m- £14 million a compromise might be found. Certainly, the Deputy Presiding

³³ *Western Mail*, 18 July 2001

³⁴ Administration Press Release, 19 July 2001.

Officer John Marek took the unusual step of pleading with the Administration to explore this option. As he told the Western Mail:

“If he is willing to do it for that amount we should accept it; we would be fools not to. I am appalled that we have come to this situation. How many extra millions would we waste if nothing is done over the summer while we go out to tender? And if we get a cheaper tender it would not be by much. And if it is cheaper would we not get a bog-standard, cheap building? And the longer we wait the bigger the chance that we are landed with a permanent hole or will have to spend even more than the present proposal. This is a major issue. If we fail on this the Welsh public will know we have failed as an Assembly.”³⁵

(v) Structural Change in the Welsh Health Service

In the National Health Plan for Wales, published in February, the Minister for Health and Social Services announced that the Health Authorities were to be abolished by April 2003. The rationale for the move was her aspiration to place primary care at centre stage in co-ordinating and managing health care.

However, there was little in the Plan that indicated exactly what was going to replace the present system. It hinted that the role of Local Health Groups would be strengthened with their taking on new responsibilities. On the other hand there would be a new assertion of the National Assembly Administration's direct control of its health responsibilities. Aside from that, finalising the details was given to a Task and Finish Group with three months to draw up a consultative document. Its proposals were published in July.

As stipulated in the Plan, Local Health Groups are to experience the most change under the new proposals. They are to become statutory bodies with powers, duties and obligations to become commissioners as well as providers of health care. Subsequently they will be responsible for securing, providing and holding the budget for primary, community, intermediate and secondary care services.

In their role as commissioners of secondary care services the Local Health Boards need sufficient critical mass and expertise to ensure effective service provision. Consequently it is proposed that secondary care responsibilities should be carried out by *Consortia* of Local Health Boards based on the three health regions of North, Mid West and South East Wales. Other services are also to be shared at Consortia Level, such as financial support services and information services.

³⁵ ‘Assembly architect offered new talks’, Western Mail, 20 July 2001.

Furthermore, Health Economy Offices are to be established within the NHS Directorate to oversee the strategic and commissioning work undertaken by the *Consortia* and monitor their performance. Each of these so-called Health Economy Teams will be led by a Director.

It is believed that as well as leading to a primary care-led service, this new structure will result in more accountability and democracy within NHS Wales. The structure will provide a direct line of accountability between the Assembly Administration and the Local Health Boards and the NHS Trusts – that is to say, a direct relationship between the Director of NHS Wales, the Chief Executives of the Trusts, and the General Managers of Local Health Boards. The line of accountability to the Assembly would no longer pass through the Health Authorities, thereby cutting out a level of administration.

Such are the proposals in outline, leaving many questions to be settled. One concern is that having 22 Local Health Groups rather than the five Health Authorities could, in fact, increase bureaucracy rather than reduce it. In terms of accountability there are also concerns that Local Health Groups, which are based on independent professions, would be less prepared to make health professionals openly accountable.

There are also doubts whether Local Health Groups are ready for the responsibilities that are envisaged for them since they are relatively new bodies. The proposed structure would also bring additional responsibilities to the Assembly Administration whose civil service is already overloaded with work. As Tony Beddow of the Welsh Institute of Health pointed out:

“It is a massive leap of faith in Local Health Groups. Health Authorities were old and experienced, but now we are moving to two new siblings, Local Health Groups and the Assembly.”³⁶

What is evident is that Jane Hutt has pledged to create a primary care-led health service in Wales. In announcing that she is to abolish the Health Authorities she has set herself the difficult task of coming up with a new structure without being seen to be creating a new level of management and further bureaucracy. It is also clear that Wales is embarking on a health structure that will be completely different from the English service.

The primary legislation which is necessary to enable this structural change was supposed to be embodied in an NHS Wales Bill to be presented to Parliament before Christmas. The Bill would have allowed for the reform of Local health Groups. However, the legislation will now be included within the English NHS Reform Bill. As a result a separate NHS Wales Bill will not figure in this year's Parliamentary programme. In July David Melding AM, Welsh Conservative Health Spokesperson, revealed that members of the Health Committee had received an 'unpublicised letter' from the Health Minister which informed them that the key clauses in the draft NHS (Wales) Bill had been

³⁶ Interview with Tony Beddow, June 2001.

transferred to the English NHS Reform Bill and that the remainder of the Bill would be postponed to 2003:

“After all the hype about a special NHS (Wales) Bill, the news that the guts of such a Bill is to be transferred to the English Health Bill is a complete retreat. The Minister has now confirmed that what little remains of the NHS Wales Bill will be postponed until 2003. It is now possible that the whole of the NHS (Wales) Bill will be scrapped and incorporated into the English Bill.”³⁷

This development suggests that Jane Hutt has failed to persuade the UK Government that a separate NHS Wales Bill is necessary for the coherent implementation of the Wales NHS Plan.

(vi) League Tables

In July the Administration decided to scrap secondary school league tables with immediate effect, an initiative which distanced the Welsh from the English education systems. During the year the Minister for Education and Lifelong Learning, Jane Davidson, had carried out a consultation on schools tables amongst parents and teachers. This concluded that league tables were unpopular with both groups. As the Minister put it:

“It is almost a decade since the current arrangements were first introduced and it is clear from the recent consultation exercise that they do not have the support of either the teaching profession or members of the public. I propose therefore that we do something different in Wales.”³⁸

Schools will continue to publish their results in their own prospectuses and governor's annual reports, but the Assembly will now be exploring alternatives to schools tables to be used to compare schools' performances in the future. They will be looking for a more 'value-added' scheme. School tables for primary schools have already been dropped by the Assembly.

(vii) 'Plan for Wales 2001'

In July the Administration issued a new strategic consultation document *Plan for Wales 2001*, designed to replace the earlier strategic plan *beterwales..com* and incorporating the

³⁷ David Melding AM, Press Release, 27 July 2001.

³⁸ Administration Press Release 20 July 2001.

objectives laid down in the October 2000 Partnership Agreement which formed the basis for the Coalition. The document sets out what the Administration has achieved so far, its main goals for each policy area, targets for its first term – that is for 2003/4 – and longer term aspirations for 2010. These last might be judged highly optimistic. For instance by 2010 no school should be seen as failing, health statistics should be close to the best in Europe, and more generally, “Satisfaction with the services provided by the Assembly, its sponsored bodies, local government and the NHS should exceed 90 per cent.” The shorter term objectives for 2003-4 are more specific. However, the document is most interesting for providing a snapshot of what the Administration itself judges it has achieved in the Assembly’s inaugural two years. These are as follows:

Developing the Learning Country

- Established the new Education and Learning Wales (ELWa) as part of our drive to transform the post-16 education and lifelong learning arrangements in Wales.
- Extended access to skills training through the introduction of the Modern Skills Diploma for Adults, extension of Modern Apprenticeships beyond 25 and a new skills development fund.
- Launched Careers Wales providing all age advice and guidance – unique in the UK.
- Set out proposals for services focused on young people in the report *Extending Entitlement*.
- Initiated a unique Knowledge Exploitation Fund to help our higher and further education sectors contribute to wealth generation in Wales.
- Reduced class sizes for 5, 6 and 7 year olds so that by September 2000 only 4.5 per cent of these pupils were in classes of over 30 from around 15 per cent in January 1999.
- Set – and moved towards meeting – challenging targets for attainment at all levels including our best ever GCSE and equivalent results.
- Showed our commitment to schools through increased funding – both revenue and capital – with over 2000 school projects having been funded from the New Deal capital programme already.
- Established the General Teaching Council to give an independent voice for teachers in Wales which befits their status as a profession.
- Introduced incentives to attract the best graduates into teaching.

Improving Health and Care Services

- Created the first Children’s Commissioner in the UK.
- Frozen prescription charges and introduced free prescriptions for under 25s.
- Frozen maximum dental charges and introduced free dental checks for under 25s and over 50s.
- Set up an All-Wales free call Mental Health Helpline (CALL).
- Increased investment in the Ambulance Trust.

- Introduced Sure Start and Children and Youth partnerships in each local authority area.
- Put in place Children First plans across Wales in response to the Review of Children's Safeguards and the Waterhouse Report.
- Published an implementation plan in order to improve treatment of Coronary Heart Disease.
- Extended *NHS Direct* across the whole of Wales.
- Provided extra funding to advance the resettlement of people with learning difficulties.
- Made regulations to enable closer joint working between NHS and local authorities.
- Launched the Assembly's Nursing Strategy *Realising the Potential* and created 11 nurse consultant posts.
- 6,500 children enrolled in the 'Smokebugs' club.
- Vaccination offered to children for Meningitis 'C', current uptake 95 per cent.
- Increased the uptake of flu vaccinations by the over 65s from an estimated 30 per cent in 1999/2000 to 53 per cent last winter.
- Put in place the Food Standards Agency.
- Opened the north Wales cancer treatment centre.
- Launched National Health Promotion Strategy and Action Plan.
- Reached an agreement to deliver welfare rights advice through Citizens Advice Bureaux.

A Modern Economy

- Secured £1,114m of additional funds to invest in the Objective One programme.
- Approved over 300 Objective One projects to date.
- Since 1 July 1999, made offers of Regional Selective Assistance (RSA) worth over £188m, securing private investment of over £840m, creating 15,700 new jobs and safeguarding 8,150.
- Introduced streamlined procedures reducing the target processing time for small case RSA claims from 30 working days to 15 working days.
- Created Wales Trade International to promote exports.
- Met and significantly exceeded the target of 50 per cent of businesses in Wales using e-commerce by 2003.
- Helped and subsequently launched the Best of Rural Wales e-commerce project which won a Government Computing innovation award.
- Since July 1999 total employment has risen by 23,000 jobs.

Creating Strong Communities

- Given an extra £173m to local government to improve council services while keeping council tax increase low.
- Taken action to tackle homelessness,
- Identified 88 deprived communities to be involved in Communities First.

- Extended ‘Care and Repair’ to all parts of Wales.
- Put Policy Agreements in place between the Assembly and all local authorities.
- Given new powers to the Local Government Ombudsman to investigate misconduct by councillors.
- Introduced a duty of ‘best value’ for local government.
- Legislated for sweeping reform of local government political structures.

The Place in Which We Live

- Introduced free bus passes for the elderly and disabled people, with a discount of at least 50 per cent on travel.
- Funded an improved North-South rail service.
- Launched PTI Cymru information service.
- Announced transport grant five-year programme of £300m.
- Completed A55 across Anglesey.
- Maintained air quality through *National Air Quality Strategy*.
- Launched a National Park scheme to pilot innovative sustainable development schemes.
- Listed all chapels in Wales.
- Published a draft Waste Strategy setting out how we will increase recycling.
- Produced an All-Wales Climate Change programme.
- Completed 97.6 per cent of Natura 2000 Network of candidate Special Areas of Conservation.
- Developed new policies on mining and quarrying in Wales based on sustainable development principles.
- Established a planning forum which has produced a comprehensive new planning policy for Wales delivering presumption against out-of-town shopping centres and the encouragement of brown-field sites.
- Key influence in the establishment of Glas Cymru, a not-for-profit water company based in Wales.
- Safeguarded organic farming by prohibiting the planting of GM crops nearby.

Supporting Rural Wales

- Secured additional funding of £15.3m from UK Government to help support Welsh farming.
- Designed and introduced new Tir Mynnydd Scheme to help protect the survival of farming in upland areas.
- Secured £8.5m since October 2000 in funding from UK Government to pay Agri-monetary compensation to offset the level of Sterling against the Euro.
- Every farmer who applied to go Organic has been given funds to do so.
- Committed £109.3m to Tir Gofal up to 2006.
- Provided free school milk for all Key stage 1 pupils.

- Implemented the Rural Development Plan following approval by Rural Commission.
- Introduced financial support to ease the burden of meat hygiene charges on small abattoirs.
- Launched new Woodland Strategy.
- Set up an All-Wales Rural Stress help-line.
- Worked with large number of farming groups and food processing companies as part of the Agri-food Strategy.

Identity

- Provided free entry to all national museums and galleries
- Increased funding for Mentrau Iaith and community language schemes.
- Launched the new Arts Council for Wales *Cultural Diversity Strategy*
- Supported bringing the FA Cup to Wales.
- Increased Arts Council for Wales budget by 28 per cent by 2003/4.
- Provided funding, through the New Opportunities Fund, to implement the People's ICT Network in public libraries.
- Supported major improvements to the Llanberis Slate Museum.

Modern Government

- Established formal partnership bodies with the voluntary sector, business and local government and made commitments to working with them.
- Published a Code of Practice on public access to information.
- Published Cabinet minutes and papers.
- Placed the Assembly's published documents and day-to-day business and papers on the Internet.
- Supported dedicated live TV coverage of committees and plenary debates.
- Provided support so that minority groups can have a stronger voice in policy-making.

(viii) Publication of Cabinet Papers

In June the Cabinet agreed to extend publication of the minutes on the Assembly website to embrace selected Cabinet Papers:

“The First Minister said that he had decided that papers for the Cabinet and its Sub-Committees would henceforth be published on the same basis as Cabinet minutes [*that is, six weeks in arrears*]. The usual tests of commercial confidentiality and

significant harm would apply and this would mean that finance papers would not usually be published.”³⁹

The first Paper to reach the website, from the Minister for Education, is referred to in the agenda for the Cabinet meeting of 2 July. It is a suitably anodyne document, *Future Work Life Balance Initiatives in Wales*, detailing proposals to take forward a campaign aimed at raising employers awareness of the business benefits to be gained from helping their employees “make a better balance between work and the rest of their lives.”

However, the principle that Cabinet papers be published alongside the minutes is potentially far-reaching and another instance of Rhodri Morgan’s wish to be seen as being at the leading edge of open government in Britain.

³⁹ Cabinet Minutes, 24 June 2001.

2. THE ASSEMBLY

John Osmond and Nia Richardson, IWA

(i) Val Feld

Tributes were paid to the Val Feld AM (Labour, Swansea East), a prominent figure in Welsh civic life for many years, who died from cancer in July. She had recently been forced to step down from her post as Chair of the Economic Development Committee because of her illness. A former Director of the Equal Opportunities Commission Wales, Val Feld was one of the founding Directors of Shelter Cymru. She was Treasurer of the Yes for Wales Campaign in the 1997 referendum. Tributes were made by AMs from across the parties in a commemorative plenary session of the Assembly held on 29 July.

Under Standing Orders a by-election for the Swansea East seat has be held before 18 October. Standing Orders also provide for the Presiding Officer to decide the date. However, following parliamentary convention at Westminster he has invited Labour to choose the date, as the party holding the seat. It is expected the by-election will be held on Thursday 4 October.

Although a safe Labour seat, Plaid Cymru made significant progress in the 1997 Assembly election, taking 27 per cent of the vote and second position, on a 36 per cent turn-out. During the recent Westminster general election this support fell to 12 per cent though the party retained second position. John Ball, a senior lecturer in Business Studies at Swansea Institute and on the radical 'independence' wing of Plaid Cymru, contested the seat for Plaid in these elections and has been chosen by the party as its candidate for the by-election. Labour have chosen Val Lloyd, a member of the City and Council of Swansea and a lecturer at the School of Health Sciences at the University of Wales, Swansea.

(ii) Alison Halford

Alison Halford, AM for Delyn appeared in Wrexham magistrate court in August accused of assaulting a taxi driver in her home town of Ewloe, Flintshire in January. She denied the assault, allegedly provoked by the taxi driver refusing to allow her pet dog to travel in his car, and was acquitted by the court.

Alison Halford is a former assistant chief constable with Merseyside Police and was at one time Britain's most senior woman police officer. She attracted some controversy recently when she argued during the Assembly Review of procedure that the £35,000 Members salary did not reflect the responsibility and hours worked by AMs.

(iii) The Queen's Speech

The Assembly plenary debate on the Queen's Speech in the wake of the general election was scheduled for 19 July. However, the death of Val Feld occurred on the eve of the debate and as a result pre-arranged Assembly business was cancelled for the day. The Queen's Speech debate will now be held in October after the summer recess.

Meanwhile, first reactions were registered in response to a Statement on the Queen's Speech to plenary by the Secretary of State for Wales, Paul Murphy, on 26 June. Members were concerned that while the Administration had been pressing for four Welsh measures to be included in the Queen's Speech – on health, education, the census, and making St David's Day a bank holiday⁴⁰ – only the health measure was to be taken forward. Moreover, as reported earlier, it subsequently emerged that key clauses in the draft NHS (Wales) Bill on the abolition of health authorities in Wales would be transferred to the English NHS Reform Bill to get them through on time, with other measures being postponed until 2003⁴¹. In the debate on the Secretary of State's Statement Plaid Cymru's leader Ieuan Wyn Jones estimated that Wales might anticipate just five measures during the coming Parliament, with 15 falling by the wayside. Responding Paul Murphy said:

“There is no question of rejecting Bills. It is a question of not being able to include everything in the first session. Many of my colleagues have made bids for a variety of Bills: the Tobacco Advertising and Promotion Bill, the Bill dealing with licensing, the Local Government Finance Bill and so on. All of these are important and all apply specifically to the people of Wales. It is a question of passing Bills in the first session and then building on others.”⁴²

On the issue of making St David's Day a Bank holiday he said discussions were on going, and a Bill on the census was not urgent because of the amount of time before the next census. More generally he emphasised to the Assembly:

“... the most effective way of giving you the tools that you need to do your job is not always necessarily separate legislation for Wales or a separate Welsh Bill, such as the Children's Commissioner for Wales Act 2001 and the NHS (Wales) Bill.

⁴⁰ See the previous IWA report, *Farming Crisis Consolidates Assembly's Role: Monitoring the National Assembly March to May 2001*, for an analysis of these proposals, pages 10-16.

⁴¹ Western Mail, 28 July 2001.

⁴² Assembly Record, 26 June 2001.

Sometimes it is a Welsh part or clauses within a large Bill, such as the Learning and Skills Bill. Thirty seven clauses of that Bill related entirely to Wales. We must remember that the Children’s Commissioner for Wales was not established by the Children’s Commissioner for Wales Bill but the Care Standards Act 2000, because of the timing of that Act in Parliament and the need, which the Assembly had expressed, for an early appointment in that particular case.

“In many cases it may be most effective to give the Assembly permissive secondary legislative powers to enable it to act in a way that is right for Wales within a broad framework of primary legislation. That is the nature of the partnership between us; a partnership that must operate for the good governance of all our people in Wales.”

Later in the debate Murphy was challenged on this point by Plaid Cymru’s Business Manager Jocelyn Davies:

“Are you aware that the Labour peer, Lord Gwilym Prys-Davies, has cited the current method of writing primary legislation as the greatest threat to this model of devolution? He justifies that with the claim that the Assembly has lost certain powers. Are you aware of that? They have been lost in the case of the Local Government Act 2000 and the scrutiny of significant council plans. Is that appropriate and acceptable, post devolution? Does it not drive a coach and horses through your claim that devolution was an event? Can you, as our voice in Westminster, justify allowing that to happen? Will we get an assurance that in future we will not lose any more powers?”

“While we are on the subject of the processes in drawing up primary legislation, are you aware that the Assembly unanimously resolved to convey to you that we want legislation drawn up flexibly? Several Members have raised that today. That is so that we have discretion over the policy content of any secondary legislation that we might choose to draw up under it. Can you tell us why that has not happened yet?”⁴³

Responding Paul Murphy re-iterated that ensuring primary legislation is permissive was important for the operation of the Assembly:

“There have been a large number of Bills that have had Welsh clauses, which has given legislative power to the Assembly. We constantly look at all Bills that go through the House of Commons to ensure that occurs.”⁴⁴

Plaid Cymru’s former leader, Dafydd Wigley, raised the vexed question of the Barnett Formula:

“No mention was made in the Queen’s Speech to any commission to consider the distribution of resources to update or replace the Barnett Formula. It is an

⁴³ *Ibid.*

⁴⁴ *Ibid.*

outmoded formula that is insensitive to the changing needs of the Welsh economy and that has ossified on the basis of the state of the economy in 1978.”

Paul Murphy responded:

“The Barnett Formula has served us well during its existence. Wales is still about 15 per cent above the UK average cost per capita ... As we said before the general election there are no plans to review the formula. However, as time goes by and with the possibility of English devolution, we will have to consider how best to deal with these bodies. At this stage I see no case for change ... The match funding for Objective 1 structural funding was over and above Barnett. Over a couple of years, a total of £400 million will come to the Assembly. That money is over and above Barnett Formula, which has never happened before. I was Minister of State in the Northern Ireland Office for two years and I dealt with Objective 1 funding. Every penny of that had to come from the block grant.”⁴⁵

(iv) Assembly Review of Procedure

As has been remarked in earlier reports this review, which has been underway since the beginning of the year, has taken on the character of a Constitutional Convention. Despite the limitations of its terms of reference, which prevent it revisiting the Government of Wales Act and considering for example extending the Assembly’s powers, the review has explored a wide-ranging agenda, including:

- The Assembly’s status as a corporate body and the need for a clearer separation between the Cabinet / Executive and the wider Assembly.
- Bringing greater coherence to the Assembly’s legislative role.
- Enhancing the Assembly’s interface with Westminster and Whitehall, especially in influencing primary legislation.
- The role of the Wales Office and the Secretary of State for Wales.
- The policy-making and scrutiny roles of the Subject Committees.
- Extending the Assembly’s connections with the European Union and the role of the European Committee.

Chaired by the Presiding Officer the Review Group has met at regular intervals and comprises the party leaders and business managers and is supported by officials from the Cabinet Secretariat and the Office of the Presiding Officer. By the end of July it had received submissions from 43 organisations and individuals, including each of the political parties in the Assembly.⁴⁶ A paper from the secretariat tabled for the July meeting of the Review Group summarising the submissions runs to 28 pages. An expert

⁴⁵ *Ibid.*

⁴⁶ See the previous Monitoring report for a detail analysis of the party submissions.

adviser to the Review Group, Richard Rawlings, Professor of Public Law at the London School of Economics, has been appointed, despite reservations expressed by the officials in the Cabinet Office. A first draft of the Review Group's report will be prepared over the summer recess and it is planned that the final report will be agreed during October and published before the end of the year.

At its May meeting the Review Group heard presentations from the Liberal Democrat leader Mike German, and Val Feld AM and Lynne Neagle AM for the Labour Group. The minutes, pasted on a section of the Assembly website dedicated to the Review Group's work, record the discussion prompted by the presentations. After hearing Mike German the following points were made:

- The Assembly's legal status was as a corporate body but this did not prevent it adopting internal structures and procedures to clarify the divide between its executive and legislative arms.
- The Liberal Democrats valued the policy development role of subject committees. Any downgrading of the Assembly's corporate nature should not weaken the role.
- There was an inherent contradiction in the ability of Ministers to influence Committee reports through their membership of subject committees, but then to reject recommendations. There should be an opportunity for plenary endorsement of committee reports
- Regional committees played a useful role but their relationship with the rest of the Assembly needed to be enhanced. The Presiding Officer suggested using Standing Orders to give greater weight to proposals from advisory committees.

The following points were examined more closely following the presentation by Val Feld and Lynne Neagle:

- The Labour Group favoured reducing the size of individual committees so that no Member sat on more than one subject committee and one standing/cross cutting committee. Party balance would need to be judged across all committees, rather than on each, to allow this.
- The Labour Group had no specific proposal on how to timetable business to free up time, but grouping committee and plenary business into specific weeks would help to provide focus and allow meetings to take place outside Cardiff.
- An extension of business on Tuesday afternoons could be acceptable if it allowed north Wales AMs to travel to their constituencies on Thursday afternoons. This would make the family friendly policy more equitable between south and north Wales Members.

- Backbench Members did not view themselves as part of a legislature. To change this perception AMs required training in handling subordinate legislation as well as more frequent opportunities to scrutinise and influence instruments.
- The proposal to integrate Human Rights with the portfolio of the Equality of Opportunity Committee was seen as sensible but would generate a large volume of additional work;
- Whilst the Review Group welcomed suggestions to make plenary debates more lively, some members felt that the reading of pre-prepared speeches strengthened the content of contributions and was often necessary for Ministers to ensure all points were covered.

At its June meeting the Review Group heard presentations from Plaid Cymru leader Ieuan Wyn Jones, and David Melding AM, for the Conservatives. The minutes record the following points made in discussion following the presentations:

- The Assembly's electoral system meant that future coalition Cabinets were likely. Given this, the Conservative Group felt that Standing Orders should be revised to reflect and clarify the posts of Deputy First Minister and Deputy Minister. Ieuan Wyn Jones registered Plaid Cymru's support for this proposal to help clarify, for example, the relationship between Deputy Ministers and the Cabinet. Although some guidance on the role of Deputy Ministers and the Deputy First Minister was available on the intranet, the Minister for Assembly Business suggested that further clarification could be given through protocols.
- There was a need for a debate in the future about the Assembly's corporate body status and the split between its executive and legislative functions. In the meantime, it would be wrong to enforce artificial distinctions that might remove the advantages of the current system.
- It was often difficult to distinguish between Subject Committee sessions that would be described as policy development and those where committees could be said to be in scrutiny mode. This overlap meant that attempting to distinguish between the two modes would be artificial.
- In respect of the Conservative Group proposal to remove the power of Ministers to include items on subject committee agendas, it was suggested that this should be a matter for the Panel of Chairs. The Conservative Group confirmed that the proposal was not intended to prevent Ministers bringing items to committee where there was consensus that they should do so, but to remove the ability to *require* inclusion on an agenda.
- The Cabinet intended increasingly to link plenary debates on policy issues to particular items of legislation and to use statements to plenary as a way of initiating policy debates, not replacing them.

- Steps had been taken to increase the involvement of subject committees in the production of subordinate legislation.

Some of these points were taken up in a letter sent to the Chair of the Review Group, Presiding Officer Lord Elis-Thomas, on 5 July by the First Minister, Rhodri Morgan:

“Anwyl Dafydd,

I am writing to you to set out my views on the issues which have arisen so far in the Assembly Review of Procedure and how they might be taken forward.

I am sorry that I have been unable to attend most meetings of the Review Group but I have been following its work closely and am pleased to see a cross-party consensus emerging on many issues. I hope these will be reflected in recommendations which the Assembly as a whole will be able to endorse.

I have tried to group my comments under three broad themes which seem to be emerging from the Review's proceedings, rather than in terms of piecemeal comments on the various components of the Assembly. I hope you and other members of the Group find this helpful.

Structures and separation

It is now becoming a commonplace belief that the Assembly's status as a corporate body is something of a handicap. It is therefore widely accepted that we should use all the scope available to make a distinction between the governmental and parliamentary side of the corporate body. The suggestions made to the Review that we should formalise this split by the creation of a “Welsh Executive” or similar reflect frequent comments to the same effect inside and outside the Assembly and elsewhere.

In political terms, the dynamic within Plenary and elsewhere is for Ministers to be held to account for Cabinet policies and Ministers' executive actions. That reflects the realities of government and the nature of delegated power within the Assembly. Debates also take place within that context. I strongly agree that the terminology we use needs to reflect these realities. I also agree that the label “Assembly” should only be applied to a policy or document if it has been endorsed in Plenary or if it refers to the views or actions of the body of the kirk.

Whatever term we use, we could not create a Welsh Executive in the Scottish style unless the Government of Wales Act was substantially rewritten. Furthermore, we must be careful not to engender a political culture in which the Cabinet and its officials might start forgetting the nature of their delegated power and exercise executive power in their own right, not on behalf of the Assembly, as it were. Nor

do we want to strangle cross-party policy development in Subject Committees which is unique to the Assembly and a success for the most part.

As regards the terminology, the Cabinet's preference is for "Government of the Assembly" and that term will be used increasingly in press and other statements which record its decisions. I have no objection to the use of other terms such as the Administration, the Executive or the Cabinet. The only one now used, which I think confusing is the "Government of Wales". Although I have used it myself from time to time, I believe it allows no recognition of the UK Government *qua* its functions in Wales and its control of 50 per cent of public expenditure in Wales.

Scrutiny

Any moves towards a more distinct "executive" increases the need for effective scrutiny. Ministers are naturally held to account by means of questions, statements and in committee. I do not detect any major defects in the arrangements for Assembly Questions, although minor amendments in contemporaneity are possible. I and my colleagues are quite content to answer any question provided we do not cut across each other's, or the UK Government's responsibilities in doing so, and I would have no objection to the rules on the orderliness of questions being construed accordingly. Nor would I have any objection to my answering questions on any matter within the Cabinet's competence, although members need to be aware that the most effective way to scrutinise a particular policy or decision is almost always to put questions to the Minister responsible for it.

There has been much discussion in the Review Group about the use of statements in Plenary. Statements are no substitute for debate, and I would oppose my colleagues using them in this way. They are better than debates as scrutiny because they allow Members to question the Minister about urgent matters, about progress on continuing issues, or about new policy initiatives. In the last case, statements can also be of value to be used at the outset and part of the policy development process. They are used to inform the Assembly and to allow an input at that stage. They would be followed by a full Plenary debate at the appropriate time either following consultation on a policy proposal or if the measure requires a significant piece of subordinate legislation. The Assembly should develop its own process for taking forward and announcing a new policy. The use of introductory statements by Ministers on new and major items of policy would be a valuable contribution towards this.

Subject Committees provide perhaps the best opportunities for detailed scrutiny of Ministers and their policies. I do not see any serious weaknesses in this function, although effectiveness does and will vary. Subject committee scrutiny is more successful the more it is integrated into their other work with real dialogue rather than interrogation. There would be strong disadvantages if there were separate committee scrutiny sessions - as some submissions to the Group have suggested. We could try them once a year to see how they worked but if they were a regular

part of subject committee work, Ministers, whoever they were, would be more prone to defensiveness or evasiveness in their replies. This could only hinder the effectiveness of committees' policy development work.

Policy-making

This is the weakest area currently because of the lack of clarity in the Assembly engagement in the policy-making process. These weaknesses may also be leading to low public engagement with and understanding of, the Assembly. The Group should make addressing them its main priority.

Perhaps the greatest defect lies in Plenary with Plenary debates resulting in the expression of an opinion rather than making any contribution to concrete policy. That has two major negative effects. On the one hand, it means that the Assembly as a whole is not making an adequate contribution to Welsh policy. On the other, it vindicates the pre-devolution charge that the Assembly would be no more than a talking shop. This diminishes our public standing.

To address this, we need to consider what the proper outputs of Plenary debate are. The most obvious are legislative and budgetary decisions: they are the only direct and formal consequences of Plenary action as far as the outside world is concerned. I am thus eager to ensure that more debates are structured around these two aspects - as was the case earlier this month with our composite debates on carers and local government reform. But for that to happen Members need to engage more with subordinate legislation in particular, to understand its scope and the opportunities to amend it. The Group has heard calls for training in this regard; I would strongly support that.

It is also important that Members engage with other opportunities in this area too. There was, for instance, only a very limited response to the Assembly resolution of last December calling on the subject committees to scrutinise Government Bills affecting Wales. At the same time, no-one has ever utilised the provisions of Standing Order 31.9 to bring forward proposals for a Bill or amendments to an existing one. While I strongly agree that primary legislation is of the greatest importance to the Assembly, it is hard to support calls for greater involvement by the Assembly as a whole when those which are currently available are overlooked.

I have already mentioned the importance of Subject Committees' working policy development. As ever, there are bound to be variations in this between committees and over time. It is a unique aspect of the Assembly's working which we should protect jealously. Dividing Subject Committee sessions between scrutiny and policy development does the opposite. I do, though, support calls for a proper response to subject committee reports: as with Plenary motions, it is important that these have a formal and identifiable input into actual policy.

I am copying this letter to Mike German, Ieuan Wyn Jones and Nick Bourne.

Yn ddiffiant,

Rhodri”

The issues raised by the First Minister are likely to prove relatively easy to resolve when compared with the more intractable questions of the Assembly’s relations with Westminster and its part in the legislative process. These matters were addressed in some detail in a submission the Review Group received from the Law Society of England and Wales in June, as the following extracts indicate:

“It is becoming increasingly difficult for lawyers, voluntary agencies and campaigning organisations advising the public, to gain a clear picture of the National Assembly's powers. As well as the body of powers contained in the Transfer of Functions Orders, there are now the effects of two legislative sessions at Westminster, in which a number of different approaches have been taken to drafting Bills that confer powers on the National Assembly. The result is a rapidly expanding and incoherent mass of statutory powers with no overarching logic to the basis of their devolution to the National Assembly.

“This makes it impossible for members of the public or their advisers to know easily what is the law in Wales. The Law Society suggests that it is essential to ensure that this body of material is available in a single, edited and preferably codified logical form for the benefit of citizens and their advisers. For example, at present, in order to gain an overall idea of the National Assembly's competence, it is necessary to examine a complex range of sources:

- Pre 1998 Acts of Parliament, to the extent that functions under those Acts have been the subject of the National Assembly for Wales (Transfer of Functions) Order 1998. In a number of cases e.g. the Environmental Protection Act 1990 this will involve the identification of individual sections and (in some cases) sub-sections of Acts of Parliament, rather than the whole Act. In addition to these Acts there are the Statutory Instruments, Orders and Directions, together with their associated circulars and guidance, issued under those Acts.
- Post 1998 Acts of Parliament conferring powers on the National Assembly for Wales and specifically the parts of such Acts relating to Wales and the National Assembly; together with the Assembly General Statutory Instruments made pursuant to such legislation and other National Assembly Orders directions and circulars.

“ The Law Society recommends that the National Assembly should make additional resources available to make possible the codification and continuous updating of a database of the statutory provisions, statutory instruments, orders and circulars enacted or issued by the National Assembly, together with the edited text

of the Acts of Parliament or parts of Acts which confer powers on the National Assembly. This could be achieved through the Assembly's website by making links with the Bailii⁴⁷ legal database ...

“ ... An examination of the Acts of Parliament passed since 1998 which confer powers on the National Assembly for Wales shows that a number of different drafting techniques have been adopted by Parliamentary Counsel to confer powers on the National Assembly ...

“... It would be helpful to establish some overarching principles both in the way in which powers are allocated in the National Assembly and, indeed, in determining which powers are to be devolved and which are to be retained at Westminster and Whitehall.

“There are now examples of primary legislation where the devolution of power to the National Assembly for Wales appears more restricted than might well have been the case had those powers been exercisable by the office of the Secretary of State for Wales in its previous form. The Local Government Act 2000 is an example of such legislation.

“The Law Society has already had a constructive dialogue with the Attorney General regarding the desirability of introducing a greater degree of consistency and the application of some general principles to the drafting of legislative provisions in respect of Wales and the National Assembly for Wales. In reply, the Attorney General has told the Law Society that an internal review by the Office of the Parliamentary Counsel is to be conducted to see what lessons can be learned from the Acts already passed relating to Wales. The Law Society suggests that the National Assembly should seek to contribute to that review.

“The Law Society would also recommend that sufficient resources are made available within the Office of the Secretary of State for Wales to participate in and monitor the deliberations of bill teams at Westminster, concerned with bills conferring powers on the National Assembly. The Law Society suggests that the Review Committee might consider seeking discussions with the Secretary of State for Wales with a view to ensuring that the Office of the Secretary of State for Wales has available adequate resources to fully monitor bills affecting Wales. The Review Committee could make the case for legislation conferring powers on the National Assembly for Wales to be drafted in accordance with an agreed set of principles applied in a consistent manner.”

⁴⁷ British and Irish Legal Information Institute – www.bailii.org.uk

(v) *'The Dafydd Glyn Jones Affair'*

During May and June the way the Assembly's Education Committee dealt with a submission from a leading academic Dafydd Glyn Jones, Reader in Welsh language and literature at the University of Wales, Bangor, provoked a range of fundamental questions. These included claims of censorship around submissions made to the National Assembly, allegations of anti-English sentiment and racism, the role of the Chair of the Committee Cynog Dafis, and the role of the University of Wales itself. The ensuing debate on these matters exposed widely differing views on the nature of Wales and Welsh identity held by the Labour members of the Committee on the one hand and Plaid Cymru members on the other.

This was a significant moment in the life of the Assembly. Hitherto, it had been imagined that a 'new politics' was beginning to emerge in Wales with a shared agenda across the party divides, especially between Labour and Plaid Cymru. The widely used term 'inclusivity', which featured extensively in the rhetoric of the first 18 months, assumed a consensus around a common national project, including the success of the Assembly itself, agreement on taking the Welsh language out of the cut and thrust of political debate, together with a new style of politics. The Assembly was supposed to provide a forum where difficult issues could be debated without the participants retreating into previously prepared bunkers. It was felt that there were great opportunities for this to be achieved within the Subject Committees, away from the combative atmosphere of plenary sessions. However, the row over the Dafydd Glyn Jones affair laid bare the fragility of the new Welsh politics.

As part of the Education Committee's ongoing Review of Higher Education Dafydd Glyn Jones, a long standing campaigner for a Welsh Medium College within the University of Wales, was invited to give evidence. Dafydd Glyn Jones duly tabled a paper *The Quality and the Medium* which makes a passionate, heavily ironic and at times idiosyncratic case for attracting more Welsh students to the University of Wales and for the creation of a Welsh medium college. Glyn Jones has campaigned for decades on these issues, with little effect. For instance, in the last half century only 22 appointments have been made to teach subjects (other than Welsh itself) through the medium of Welsh in a University with more than 4,000 staff. Glyn Jones suggests a critical mass of 200 lecturers would be necessary to address the need – a scholarly community spread between the various institutions of the University of Wales but concentrated in the first instance at Bangor and Aberystwyth. Ten lecturers each would be needed in some 20 subjects, appointments which could be made over a period of five years:

“The aim and the hope would be to nurture, over a period of time, a fellowship of Welsh thinkers in all branches of learning, the task in which the University has failed so abjectly down the years – a failure mainly due to not trying.”⁴⁸

⁴⁸ Dafydd Glyn Jones, *The Quality and the Medium*, paper ELL 09-01 tabled at the Education Committee meeting, 17 May 2001.

However, it was appendices to the submission, previously published articles, that caught most attention of members of the Committee, in particular Appendix 1 *A University Problem*:

“... we ought now to be starting to consider new ways of supporting and financing university education under a Welsh government. The government of Wales should, by some means or other, make it possible for the University of Wales to offer especially favourable terms for all who are born and brought up in Wales and who desire to study for a degree in the University and who are suitably qualified. We are not talking about favourable academic terms, and I hope that everyone understands this. Academically, we ought to be raising the requirements, not lowering them. Every student from Wales, Welsh speaking and otherwise, because he is from Wales, should be offered an education in the University of Wales at a very advantageous price, with no means test or any repayment, a price that may induce him to consider that his father’s or mother’s old university might be all right after all. This should be done quite openly, in a bold attempt to break the bad habit and to build up a strong, varied and interesting community of Welsh people in the University that was intended for them. There should first be a trial period of five years. Then another five years.

“The English in the University of Wales would be hopping mad. But this is not a matter for them. It is a matter for the government of Wales.

“We should accept that Wales’s central problem today is the lack of stable and self-perpetuating native governing class. A Welsh government, at the first available opportunity, should take bold, open and decisive steps towards the resolution of this problem.”

On 17 May Dafydd Glyn Jones attended a meeting of the Education Committee to give oral evidence. Following his presentation Huw Lewis, the Labour AM for Merthyr, told the Committee that he had read his submission with “some degree of growing alarm.”⁴⁹ At a later meeting of the Committee he suggested that if the paper was accepted it would set a precedent that

“...any Committee must sit and listen to outrageous, sexist, xenophobic, racist, inflammatory, even illegal statements in the future ...”⁵⁰

At this first meeting (on 17 May) Huw Lewis sought to introduce a motion

“... that the Committee should strike from the record or not consider Paper Five (Dafydd Glyn Jones’ paper).”⁵¹

⁴⁹ Meeting of the Education Committee, 17 May 2001. Verbatim transcripts of Committee meetings are not normally available, with only tape recordings archived. However, on this occasion the Committee Chair ordered transcripts of the meetings that dealt with the Dafydd Glyn Jones affair to be prepared.

⁵⁰ Meeting of the Education Committee 13 June 2001.

⁵¹ Minutes of the Education and Lifelong Learning Committee, 17 May, 2001.

The Chair refused to accept this motion but, following consultations and legal advice allowed the following motion to be submitted by Huw Lewis at a meeting of the Committee a week later, on 23 May:

“This Committee believes that certain passages of the paper if they cannot be removed could be construed as gratuitously offensive. This Committee resolves to set aside this paper, so as not to include it in evidence compiled for our final deliberations. We also call upon our expert adviser not to include this paper as evidence considered for his report.”

Cynog Dafis interpreted the motion as an effort to censor the paper, commenting later:

“I decided that there was so much at stake that I would resign from the chair if this motion was passed.”⁵²

He refused to allow a vote at this stage, which created some acrimony. In a subsequent briefing note for the Committee explaining his decision Dafis wrote:

“By the time that Huw Lewis presented his motion to the Committee on May 23 I had received legal evidence which stated, inter alia, that a formal decision to entirely disregard Dafydd Glyn Jones’ evidence ‘would set an unfortunate precedent with wider implication for the operation of the policy-development role of Assembly Committees’, and Huw Lewis had been given a copy of that advice. Nevertheless, Mr Lewis decided to propose a motion that would have exactly this effect, and this without its having been shown to me or circulated to Committee members beforehand. I decided to act on the basis of the Presiding Officer’s Guidelines on Motions to Committees according to Standing Order 8.17, and postponed a debate and vote until the next meeting so that the motion could be presented in advance and there would be an opportunity to propose written amendments in advance. My decision was questioned at the time, and it was suggested that I had acted dictatorially, and that the date of the Westminster General Election had influenced my decision, but my conscience is clear that my actions were proper and responsible.”⁵³

By the next meeting of the Committee a fortnight later, on 13 June, Huw Lewis’ May 23 motion had been replaced by the following:

“The paper *The Quality and the Medium* by Dafydd Glyn Jones has been presented to this Committee in the context of our policy development study on higher education in Wales. The Committee wholly deprecates the language used at points in the text. We regard it as being both highly personal and capable of misinterpretation as being gratuitously offensive and prejudicial. The expressions used potentially distract attention from a proper and full consideration of the main

⁵² Cynog Dafis, *Pechodau Dafydd Glyn Jones* (The Sins of Dafydd Glyn Jones), *Barn* (Opinion – monthly Welsh language current affairs magazine) August 2001.

⁵³ Cynog Dafis, *Decisions by the Chair in relation to the matter of Dafydd Glyn Jones*, Annex E to the Minutes of the Education Committee, 13 June 2001

proposal in the paper itself. The Committee resolves that we and our expert adviser should totally disregard the subjective opinion in the paper and focus solely upon the substantive proposal, with appropriate rigour and objectivity.”

Cynog Dafis regarded this re-worded motion as significantly less draconian than the first, removing the need for him to consider resignation in the event of it being passed. However, as he put it later:

“The reader can decide for her/himself how much intellectual *rigour* the wording of this motion exhibits (is there such a thing as an opinion which is not subjective?) but it is clear enough, in spite of the obvious attempt to modify the undifferentiating condemnation of the previous motion, that the whiff of censorship was still in the air.”⁵⁴

Nevertheless, the motion was passed by six votes to four, with the Committee dividing on party lines.⁵⁵ The governing Coalition, Labour and Liberal Democrats, were in favour, while Plaid Cymru and the sole Conservative, Jonathan Morgan (South Wales Central) were against. The position of the Liberal Democrat representative, the new North Wales List member, Eleanor Burnham, appeared contradictory. She voted for the motion yet spoke against it, in the following terms:

“I think we belittled the gentleman. I might not agree with him totally, but he is a person of some standing in Welsh literature and language – he has a degree from both Oxford and Wales. He is a philosopher and a politician. Perhaps he has a sense of humour that does not fit with some people’s ideas here. But I feel free speech needs to be maintained and the precedent we set if we vote for this motion could be quite dangerous.”⁵⁶

There is no doubt that Eleanor Burnham came under great pressure to support the Coalition view. In turn this reflected debates on the issue that took place within the Labour and Liberal Democrat Party Groups in the Assembly. There was no doubt that the leadership of both parties supported the motion. In particular the Education Minister Jane Davidson, referred the issue to the Panel of Committee Chairs, suggesting at one point that all submissions made to Committees should be examined or filtered by the Secretariat so that potentially offensive material might be excised.⁵⁷ This idea was firmly rejected by the Head of the Committee Secretariat Marie Knox who not only judged that it was impractical, but also had legal advice that the motion passed by the Education Committee might be in contravention of the European Convention on Human Rights.

⁵⁴ Cynog Dafis, *Pechodau Dafydd Glyn Jones* (The Sins of Dafydd Glyn Jones), *Barn* (Opinion – monthly Welsh language current affairs magazine) August 2001.

⁵⁵ The six Members who voted for the motion were Jane Davidson, Labour, Pontypridd (Minister); Alan Pugh, Labour, Clwyd West (deputy Minister); Lorraine Barrett Labour, Cardiff South and Penarth; Janice Gregory, Labour, Ogmoredale; Huw Lewis, Labour, Merthyr; and Eleanor Burnham, Liberal Democrat, North Wales. Those against were Cynog Dafis, Plaid Cymru, Mid and West Wales (Chair); Pauline Jarman, Plaid Cymru, South Wales Central; Gareth Jones, Plaid Cymru, Conwy; and Jonathan Morgan, Conservative, South Wales Central.

⁵⁶ Transcript from Education Committee, 13 June 2001.

⁵⁷ See the Committee minutes for 17 May 2001.

Jane Davidson herself later withdrew from the position she had previously taken on the issue, insisting that her suggestion had been misinterpreted or misunderstood. As a result of these and other exchanges it was suggested that the Presiding Officer should be asked to provide guidelines on the acceptability of outside submissions to the Assembly. In the event this course was not followed since a meeting of the Panel of Chairs of Assembly Committees, meeting on June 26, resolved that material submitted to Committees should not be filtered by the Chair or Clerk before being made available to Committee members. It accepted the following motion proposed by Ron Davies, temporary Chair of the Economic Development Committee, and Gwenda Thomas, Chair of the Local Government and Housing Committee:

“Having considered the advice from the Committee Secretariat of the Office of the Presiding Officer and the Presiding Officer’s Legal Officer, the Panel of Chairs is of the view that any interference whatsoever in the process whereby papers are submitted by any contributors is an unacceptable and unwarranted infringement of the principles of freedom of thought and expression as defined by the Human Rights Act.”⁵⁸

The issues of free speech and censorship provided the constitutional dimension of the Dafydd Glyn Jones affair. As Cynog Dafis concluded:

“When Huw Lewis’s second decision was passed, something very grave happened, but I’m fairly confident that the backers of enlightenment in the National Assembly will make sure that hard lessons are being learned and that this kind of thing never happens again. Freedom of speech was under threat in the National Assembly for Wales in a way that would never have happened in The House of Commons.”⁵⁹

Aside from the democratic issue, there was an equally fundamental ideological and political dimension to the Dafydd Glyn Jones affair. This was provoked by his views on the role of the University of Wales in promoting a Welsh élite which exposed a deep cleavage between the approach of Labour and Plaid Cymru members. Here the key passage in Glyn Jones’ paper was the one dealing with University standards:

“A university that requires three As from each new student is there and then a better university. Why do all universities not require it? Because there are only so many such students. There are still only two universities in the United Kingdom which can take their pick from among applicants with three or four A’s, accept some because they seem to have that rather indefinable “something extra”, and refuse others because they do not like their accent or their body-language. That is possible for them because their primary function is still to select and nurture an **elite** to lead, govern and serve the English nation – although they have other functions as well. The primary function of the University of Wales – I cannot see that it could be otherwise – must be to offer a reasonable education, at a reasonable charge, to a reasonable number of our children; this does not mean that it could not, or should

⁵⁸ ‘Issues Arising from Panel of Chairs Meeting’, Committee Secretariat, July 2001.

⁵⁹ Cynog Dafis, *Pechodau Dafydd Glyn Jones* (The Sins of Dafydd Glyn Jones), *Barn* (Opinion – monthly Welsh language current affairs magazine) August 2001.

not, at the same time nurture a patriotic Welsh **elite**, talented, enterprising, faithful people who will stay in Wales, work in Wales and serve Wales – we should never be coy about this function.”

Huw Lewis responded to this passage in the following terms:

“... the whole point of what he’s saying is that Wales’ key problem is the lack of a stable and self-perpetuating native governing class. Well my politics has been fighting against self-perpetuating governing classes native or otherwise for a hundred years. I’m not going to sit here and watch another one being created on the back of this Review.”⁶⁰

And as Alun Pugh, the Deputy Education Minister and Labour Member for Clwyd West, added:

“... it’s the offensive anti-English and sneering tone of this document that I find totally unacceptable. We all know that Wales has many problems but the lack of a self-perpetuating, patriotic elite governing class is not one of them in my judgement, and I know that miners’ sons like me would be unwelcome at the doors of Mr Jones’ proposed college. I wouldn’t pass his patriotism exam because I am not Welsh enough for him, but I will console myself with the certain knowledge that he thinks most Welsh people aren’t good enough either. This Assembly is for all the people of Wales and bigotry, even bigotry dressed up as an academic paper, is not acceptable here.”⁶¹

Cynog Dafis responded to these charges at length in his article for *Barn* later in the year:

“Dafydd Glyn Jones’ deepest anxiety is that Wales’s most able young people are being constantly drained away from Wales - the very people who should grow to be the leaders of our social, cultural, economic and political life. Who can deny that to lose these people as happened at an increasing rate throughout the 20th Century is one of the main reasons for our feebleness and our anxiety about our national future today? What nation worth mentioning hasn’t got a class of people of this kind to serve it and make an effort to improve and develop it? Dafydd Glyn Jones would be among the first to recognise the danger of such a group growing to be a closed group which would guard its own power and exclude others - there is plenty of evidence which shows this in his writings. What therefore is the meaning of the word ‘self-sustaining’ to him? Well very simply, I assume it means escaping from the familiar pattern that he describes so incisively:

‘1. Grandfather: the small holding, the coalface or the quarry. 2. The Father: the old University of Wales. 3. The Son: a university in England. 4. Grandson: University - God knows where.’

⁶⁰ Transcript of the Education Committee meeting, 17 May 2001.

⁶¹ Transcript of the Education Committee meeting, 13 June 2001

“... Dafydd Glyn Jones’ great sin is that he wants Wales to be a nation. That nation exists in his imagination, reminding him constantly of the painful distance between dream and reality. Because he put his imagination into words, using all the weaponry of a creative writer - satire, irony, incisive phrases, imagery - he was called sinister and flippant. And racist which, to a civilised soul like Dafydd, is the most wounding accusation possible. The motion that was passed on June 13 (Labour and Liberal Democrats for, Plaid Cymru and the Conservatives against) was an attempt to ensure that the voice of Welsh nationalism, of all the voices, should not be heard in our National Assembly. That attempt must of course be defeated, but there is an even more difficult job to be done.

“The task facing us is to create a nation. Not to protect, but to create. To create it from the raw materials that are at hand - all of the diverse, divided elements and cross currents that inhabit Wales at the beginning of the 21st century. There has to be a greater willingness to listen across the divisions than has been seen on this occasion if this great enterprise is to succeed.”⁶²

This was an ill tempered dispute. Undoubtedly it registered deeply with AMs inside the Assembly. What lasting impact it might have outside is more difficult to assess. The row was fuelled to some extent by party rivalries at a time when a British general election was underway. Combined with the Seimon Glyn affair⁶³ over the impact of incomers on the housing market in Welsh-speaking communities, it projected the Welsh language into the Assembly as a subject of political argument. Previously there had been an impression that the language had been taken out of politics, or at least neutralised in terms of political debate. Henceforth, it would be more difficult to achieve a consensus on these matters. Certainly, one result was an interruption to what some had seen as growing agreement between Plaid Cymru and Labour on a range of policy questions, and not least on the future of the Assembly itself.

(vi) Pay and Allowances.

In July Assembly Members unanimously voted to give themselves a pay rise significantly above the rate of inflation. From now on, Assembly Members will receive an additional £1,500 per year which brings their overall annual salary to £38,000. They had already voted for a £1,000 pay rise in April, however this new rise follows the recommendations of the Review Body on Senior Salaries to the Assembly Presiding Officer. A salary

⁶² Cynog Dafis, *Pechodau Dafydd Glyn Jones* (The Sins of Dafydd Glyn Jones), *Barn* (Opinion – monthly Welsh language current affairs magazine) August 2001.

⁶³ See the previous report, *Farming Crisis Consolidates Assembly’s Role: Monitoring the National Assembly March to May 2001*, IWA, May 2001.

increase was recommended because the Review Body felt that the workload of Assembly Members had turned out to be heavier than expected.

Ministers of the Cabinet and the Presiding Officer all receive £73,357, whilst First Minister Rhodri Morgan receives £106,158. They however, did not receive any additional increase as a result of the review.

For the first time, the Chairs of the Assembly's committees will get an additional pay of £5,150, per year although this is less than the £12,000 recommended by the review. Payment of Chairs opens the way to increased resources for the Committees more generally.

There was little opposition amongst the AMs to the increases, although David Melding (Con) tabled a statement of opinion on the same day as they approved the rise asking for members' allowances to be published annually in order to be more transparent, and to recognise the public's right to scrutinise this information.

A demand for members' allowances to be published has been subject of a campaign by the *South Wales Echo* and the *Western Mail*. In an editorial in July the *Western Mail* argued:

“Refusing to publish the allowances of its members is an affront to the people of Wales only made worse by its clearly hollow boast of being totally open and transparent. By being open and honest, presenting their expenses with broad explanations of how they were incurred, they would allay the fear of many people that the Assembly is an expensive talking shop.”⁶⁴

What caused more of a furore in the press than the actual pay rise of the Assembly Members was the suggestion that all Assembly members should have extra money to pay for second homes in Cardiff. As part of the change in regulations on pay and allowances AMs from the Cardiff area will now be able to claim up to £10,500 a year to buy or rent a second home in the city. The allowance had been previously introduced to ease the burden of travel on AMs living in north, mid and west Wales. However, it seemed that very few of the members affected by this change would take advantage of the allowance.

⁶⁴ *Western Mail* 13 July

3. POLICY DEVELOPMENT

Nia Richardson, IWA

(i) Agriculture

The number of foot and mouth cases continues to rise in Wales and a major Rural Recovery Plan worth £65m of funding was launched in late July to help rural Wales recover from the effects of foot and mouth (see opening Section on the Administration). Furthermore a publicity campaign *Stamp It Out* was launched to promote the importance of cleansing and disinfection measures in rural areas in an effort to eliminate the disease.

The effect of the foot and mouth disease on rural Wales has highlighted the importance of the long-term strategy for Welsh agriculture that has been drawn up by the Administration with the assistance of a Farming Futures Group. The Group consisted of a cross-section of experts from the industry. The strategy, which was issued for consultation in July, seeks a new direction for Welsh agriculture dividing programmes for action between internal Welsh policies and influencing the UK Government and the European Union. The consultation period will come to an end in September.

In July the Agriculture and Rural Affairs Committee presented its report *Diversifying the Rural Economy* to the Assembly. The Chair of the Committee Glyn Davies told the plenary session:

“The report sets out nine recommendations, which are: to note clearly the responsibilities of rural agencies; to improve financial provision and advice to rural businesses; to improve the evaluation and performance of agencies and policies; to improve the development of skills and links with education and business; to nurture local enterprises and disseminate good practice; to improve workplace provision and business development; to market and add value to rural produce; and to encourage community based economic development and planning land use proactively as part of rural regeneration.”⁶⁵

The Committee has decided that its next major review will be on the provision of Information and Communications Technology (ICT) in rural areas.

Following the approval of the Wales Leader-Plus Single Programme Document by the European Commission in early July, the Minister for Rural Affairs proceeded to choose the following seven groups to participate in the programme – worth £9.3m - for the next six years:

⁶⁵ Assembly Record of Proceedings 12 July 2001

- CRAI - Clwydian Range Action Initiative (rural Denbighshire and Flintshire)
- Menter Môn (rural Anglesey)
- Glasu (rural Powys)
- SPARC/ PLANED (rural Pembrokeshire)
- Rural Conwy
- Northern Marches (rural Wrexham)
- Adventa (rural Monmouthshire)

(ii) Culture

On 20 June the Minister presented her Draft Culture Strategy to the Culture Committee. It draws extensively from the former Post 16-Education Committee's review of the arts in Wales and its report *A Culture in Common*. The draft strategy states:

“Our policies will be designed to achieve the ambitions set out in *A Culture in Common*. Those ambitions are:

- A rich culture in support of stronger communities
- A confident diversity - making the most of our positive distinctiveness and identity
- A learning country supported by a vibrant artistic and cultural activity
- Enterprising industry, and a creative culture
- National ambition, and international reach.”

The draft met a good deal of criticism in the Committee. Jonathan Morgan (Con) bemoaned that the Strategy did not propose any real targets or timetable for activities. Alison Halford (Lab) remarked that it lacked vision, and was also critical of the structure of the report which she said did not give a steer.

Up to 25 public organisations will now be under statutory obligation to develop a Welsh Language Scheme after the Minister pushed through regulations to bring them under the scope of the Welsh Language Act. Organisations affected include the Basic Skills Agency, the Commission for Health Improvement, the Film Council, the New Opportunities Fund and the Radio Authority.

The Minister has established a Football Forum which will be led by the Sports Council for Wales and will look at ways of developing the sport in Wales.

(iii) Education

In June the Independent Group on Student Hardship produced their report involving 54 recommendations in three parts. The first is aimed at the UK Government, the second at the National Assembly and the third at the National Assembly and other organisations.

The report recommended two new schemes to distribute access and hardship funds from 2002 onwards. The new schemes would be called Learner Maintenance Bursaries (LMBs) and Financial Contingency Funds (FCFs). The LMB would be a means-tested and needs-based targeted entitlement available for learners in Further Education and Higher Education, with a minimum entitlement of £75 and a maximum of £1,500 a year per person on a sliding scale. LMBs would be for learners normally resident in Wales wherever they study. Local authorities would be responsible for administering LMBs. The FCF would be for crises and emergencies and would be used for grants or loans. Part of it would be reserved for learners from outside Wales to ensure that they have access to the same level of resource in Wales as they would from the Access and Hardship Funds in the rest of the UK.

Furthermore, the report proposed that 'up-front' student tuition fees in Higher Education should be abolished and replaced by an end-loaded income contingent graduate Endowment Contribution.

Another recommendation to increase the amount of Access and Hardship Funds for 2001-02 to £20m was immediately implemented by the Minister for Education and Lifelong Learning when she announced that £20m of access and hardship funds had been made available for the coming academic year.

Another policy development in the field of Higher Education is to give the opportunity for more people to study via a single credit framework. A working group will now begin to work on how such a system could be implemented and it is hoped that the framework will be in operation by April 2003. The Minister explained how this would work in the following terms:

“In future more individuals are likely to be learning at home or work through self-study and using information technology. Wherever they choose to study and at whatever level the unit or module must be of a recognised standard, to be of value and portable. A fully unitised curriculum with credits and values attached to each unit will enable all qualifications and awards to have credit values. They can then be compared and the outputs measured.

“It would be possible to set national targets in credit terms and record progress in credit terms inclusive of all learning. Credit values could also provide an effective means of funding education and training and provide a seamless transition from secondary through to further and higher education and training whilst maintaining standards.⁶⁶

⁶⁶ Assembly Press Release 4 July 2001

In June the Education Minister announced that the contract to pilot the new Welsh Baccalaureate post-16 qualification, initiated by the Partnership Agreement with the Liberal Democrats, had been awarded to the Welsh Joint Education Committee.⁶⁷ The WJEC will now have the task of developing an appropriate curriculum for the pilot which be undertaken in around a dozen centres across Wales for three years from September 2003. However, the Administration has moved away from the commitment made in the October 2000 Coalition deal which stated that the new curriculum would be based on the International Baccalaureate. The intent at that time was for the IB to be used as a back-up qualification for those students going through the pilot. Later, however, it was decided that the back-up qualification should be the A levels. As a result it is difficult to see how a 'baccalaureate approach' can be achieved for the new curriculum now to be piloted.⁶⁸

The draft report of the Education and Lifelong Learning Committee's Review of Higher Education will be prepared in the next few months. Meanwhile the Committee's Supply of School Places Policy Review draft final report was presented for debate in plenary on 10 July. There were three recommendations:

- The Minister should commission the Audit Commission to extend its recent survey on 'Managing School Places' to include the remaining 12 local education authorities in Wales.
- Based on the findings of this survey, the Minister should arrange for revised guidelines to be drafted on planning schools places, for consultation with LEAs and other relevant organisations.
- That these guidelines should include reference to -
 - School organisational plans
 - A simplified methodology for calculating the capacity of schools
 - Greater use of school buildings by the local community
 - Small schools

A report commissioned by the Administration on how to reduce bureaucratic burdens in schools was launched on 10 July and was the subject of a public row between Jane Davidson, the Minister for Education and Lifelong Learning and the Teacher Unions. The Minister announced that £1,000 will be given to every school at the beginning of next term to enable them to start implementing some of the report's recommendations. The report covered subjects such as external documentation, documents and planning, examinations, school inspection, ICT, administration support in schools, a special educational needs code of practice and meetings and written communications.

However, the Teachers Unions unanimously declared that the report did not produce a clear enough solution to the problem. For instance, Geraint Davies from the National Association of Schoolmasters and Union of Women Teachers Cymru said:

⁶⁷ Statement to plenary, Assembly *Record*, 26 June 2001

⁶⁸ See an IWA Paper *The WelshBac Pilot: Will It be Based on a Baccalaureate Approach?*, August 2001, for an in-depth analysis of this issue.

“This is simply a review of the bureaucracy teachers face. It has identified the problems but it does not solve any of them. If there is to be a cap on the number of meetings teachers have to attend we should be told how many. I hope this report will help to ease the burden on teachers but I have the feeling it will be just another report debated in the Assembly then put on a shelf and forgotten about.”⁶⁹

The Minister was extremely unhappy with this response from the Unions and wrote to the National Union of Teachers stating:

“I am anxious that the Assembly should continue to have a fruitful dialogue with the teachers' unions, schools and other organisations. Characterising this report as a waste of time, as your remarks imply, will seriously damage the prospects for such as dialogue and teachers and schools will be the losers.”⁷⁰

The Unions went public with the letter and accused the Minister of over-reacting. Gethin Lewis of National Union Teachers Cymru said:

“We are astonished at the over the top response from an Education Minister who is obviously coming under increasing pressure. We are disappointed with the Minister's letter and with time she will come to regret her intemperate attack on Wales's largest teacher and head teacher union.”⁷¹

Half a million pounds has been allocated to assist the implementation of some of the recommendations of the PE and Sports task force which recently produced its report for consultation. The money will fund pilot Curriculum Development Centres to identify, strengthen and develop good practice in physical education and school sport, as well as the appointment of a national PE and Schools Sport Co-ordinator

(iv) Economic Development

The Assembly was eager to announce in mid June that Objective One funding had surpassed the £400 million mark and had been distributed between 289 projects. For example, over £2.3m of Objective 1 funding was given to six projects in west Wales in July, as follows:

- £1,101,063 to Gorseinon College to build and equip a new Art, Cultural Industries and Technology Centre.

⁶⁹ *Western Mail* 18 June 2001

⁷⁰ *Western Mail* 19 June 2001

⁷¹ *Western Mail* 20 June 2001

- £932,400 to Bridgend College of Further Education to upgrade its buildings and expand its services to the wider community
- £142,600 to the Pembrokeshire Coastal Forum to fund a team to take forward the work of the Forum and promote a strategic approach to environmental and economic matters in the coastal zone.
- £63,213 to Pembrokeshire County Council to co-ordinate the production of a management scheme for the Pembrokeshire Islands, which has been designated a candidate Special Area of Conservation.
- £44,824 to Pembrokeshire College to facilitate ICT training for local SMEs unable to access facilities at college sites
- £31,408 to the Wales Co-op Centre to develop the credit union movement in the County Borough of Bridgend.

The consultation period for the Assembly's National Economic Development Strategy came to an end in July. The Wales CBI was highly critical of the draft strategy which it described as 'an ineffective response to the nation's needs.'⁷² Its Director David Rosser said it had "... relied too much on relatively minor initiatives like trade missions and had missed out on the 'big issues like education, transport and planning systems.'⁷³ The CBI also complained that planning guidelines in Wales needed to be made less stringent and also expressed its disappointment that the Assembly was still considering plans for supplementary business rates even though they had been rejected in Scotland and England.

In August the Cabinet published a summary of its response to the Economic Development Committee's Business Support Review. The Committee's report had recommended a single gateway for all public sector business support services in Wales. The Cabinet have instructed the Welsh Development Agency to be responsible for the management of this 'single gateway' and the WDA have been asked to submit its proposals for managing business support services by mid October with full consultation with relevant bodies on:-

- How they will manage the Business Connect network in a way that meets the needs of all parties.
- Identifying areas of overlap and duplication of services and products and consider ways of streamlining provision which will best meet the needs of the client.
- Ensuring that national quality standards are firmly embedded in all aspects of service provision.
- Introducing mechanisms to enable a proper evaluation of services to be conducted including appraising all services on a regular basis.
- Reassuring private sector organisations that there will be transparency of decisions where there is a potential for conflicts of interest.

The Economic Development Committee has decided that its next review will look at energy.

⁷² *Western Mail* 25 July 2001.

⁷³ BBC Website 25 July 2001.

A forum to advise the National Assembly on international trade has been formed and met for the first time in late May. It consists of representatives of the private sector as well as some from public organisations. Its purpose is to guide the strategic priorities of Wales Trade International, the international trade arm of the National Assembly.

(v) Health

A new Waiting Times Strategy has signalled a change in focus on performance from looking at waiting lists to looking at waiting times, advocating:

- Shorter waiting times in the priority areas of Cardiac Care, Orthopaedic Service, Cancer services and cataract surgery.
- More certainty and choice for patients.
- Better reporting on waiting information.
- Better information to the public on the whole picture of waiting.

The Assembly has also brought together a package worth £12m in funding to reduce long waiting times for orthopaedic patients. As the Minister Jane Hutt stated:

“This £12m package is a joint venture with health authorities and trusts which will commit £5m of Assembly resources on this single objective, supported by £1m from the Innovations in Care Programme and £6m from investment by the health authorities themselves. As a result I expect long waits to have been eliminated in Wales by the end of July 2002.”⁷⁴

This intervention followed a furore in the press over the scandalous lengths of orthopaedic waiting times, particularly in Jane Hutt's own constituency, the Vale of Glamorgan.

A Strategy for the Future of Primary Care has also been launched for consultation. It reflects the Administration's aspiration to have a Primary Care-led National Health Service in Wales. The main initiative is that Primary Care Resource Centres will be developed to provide local services, such as dietetics, physiotherapy, chiropody, speech therapy, and occupational therapy that require larger scale organisation for support. An option being considered is for salaried GPs to work out of some of the Primary Care Resource Centres Primary Care doctors will also operate with smaller lists than previously and will spend significantly increased time with each patient in each consultation. The Strategy also states that the Administration will encourage more flexible interpretations of the existing contracts and work with national processes to

⁷⁴ Administration Press Release 26 June 2001.

reform the remuneration (contract) for GPs and other primary care professionals to ensure the high status of a career in primary care.

Another development in Primary Care is the Welfare Rights Initiative which aims to improve the availability of information on welfare rights and benefits advice to patients particularly at GPs surgeries. Seven pilot schemes, in which patients will be referred to Citizens' Advice Bureau councillors if they have welfare problems will be established in centres throughout Wales. It is hoped that this will also reduce the time GPs spend resolving non-medical queries.

Tackling coronary heart diseases is one of the Assembly's health priorities. In July the National Service Framework *Tackling Coronary Heart Disease in Wales: Implementing Through Evidence* was launched. It is intended that the Framework will set national standards and define the models for delivering services, put in place programmes to support implementation, and establish ways to measure the progress being made. It has already been announced that the initial funding of the Inequalities Fund worth £3m will go towards tackling coronary heart disease.

The report of the Resource Allocation Review led by Professor Peter Townsend was presented to the Health and Social Services Committee. The report recommends changes in the way NHS resources are allocated in Wales. It proposes a new formula which would allocate money to different areas according to the health care needs of their population. The formula would be based on the Welsh Health Surveys, which give information about the conditions of health of representative sample of the Welsh population. It is hoped that the new formula will be used in 2003-04.

A task and finish group on Social Care Workforce Recruitment presented their recommendations on how to improve recruitment and retention of the social care workforce to the Health and Social Services Committee. The recommendations included a campaign to improve the profile and image of social care in order to tackle recruitment and retention. There were also recommendations on social work training which stated that training should be at least graduate level, that there should be flexible routes to qualification and that the transferability of qualifications across the UK is essential.

(vi) Local Government and Housing

An independent study into the role and remuneration of elected Councillors commissioned by the Minister for Finance and the Communities has been presented to the Assembly Local Government Committee. A key recommendation in the report, dealt with in more detail in the later Section on *Relations With Local Government*, is the allocation of a basic allowance of £9,907 for all councillors in Wales.

The final proposals for the National Housing Strategy for Wales *Better Homes for People in Wales* were presented to the plenary in July. In her speech the Minister Edwina Hart encouraged local authorities to transfer their stock to landlords who are able to obtain private sector investment to improve the standard of some council housing:

“Local authorities need to examine all credible options to secure investment for improvements in their housing stock. All local authorities in Wales are to be required to quantify the extent of the repair and improvement liabilities of their stock, and to produce plans that demonstrate how the stock will be regenerated within the next 10 years. To do that, it will be necessary for some local authorities to consider transferring their stock to landlords who are able to obtain private sector investment.”⁷⁵

This policy direction is likely to be opposed by many local councils, particularly those run by Labour councillors who are anxious to keep their stocks of council houses.

In the autumn the Local Government and Housing Committee is to hold a policy review of community regeneration.

(vii) Environment, Transport and Planning

The Assembly's Wales Waste Strategy has been issued for consultation with the final document being launched next spring. Entitled *Managing Waste Sustainably*, the Strategy proposes combined recycling and composting targets for local authorities of 15 per cent of domestic rubbish by 2003-04, rising to 40 per cent by 2009-10. The Assembly announced that £40m will go towards implementing the plan with the bulk of the funding going towards grants being awarded to each of the 22 Welsh county councils. It is intended that the grants will be used by local authorities towards:

- The implementation of recycling and composting schemes for municipal waste, including the development and improvement of Civic Amenity sites
- The provision of education programmes to increase awareness within the general public and industry
- The development of partnerships between local authorities as well as public, private and voluntary sectors to include development of processes and markets of recycling and composting.⁷⁶

Draft Planning guidelines have been launched for consultation. The purpose of the guidance is to help local planning authorities improve standards of design across Wales.

⁷⁵ Record of Proceedings 19 July 2001

⁷⁶ Administration Press Release 14 June 2001

It is being formulated in the form of a Technical Advice Note 12 'Design' and will complement the Assembly's draft Planning Policy Wales. The main elements include:

- Advice on the design process and the objectives of good design.
- Advice for local planning authorities to promote good design in their Unitary Development Plans and in consideration of planning applications.
- Design advice relating to issues such as housing, employment, transport and movement, and urban regeneration.

Marine Dredging has proved to be a controversial issue and the Assembly has produced a draft document entitled Marine Aggregates Dredging Policy for consultation. The document gives strategic and area-based guidance for dredging in Welsh waters within the Bristol Channel and Severn Estuary. It will guide the dredging industry on where dredging for marine aggregates is more acceptable and where marine dredging should be discouraged.

The Environment, Transport and Planning Committee have published their report on public transport in Wales for consultation. The report recommends bus and train services being run by a single all-Wales public transport authority (PTA). However, if that turns out to be too ambitious, they recommend that smaller public transport authorities be set up across all of Wales. This, they hope will create more integrated bus and train services and subsequently make it easier for passengers to move from one form of transport to another. The report also recommends investing large sums of money in improving public services and awarding quality services with a 'kite mark'.

(viii) Information Technology

A new Strategic Framework for ICT in Wales was unveiled by the Assembly's e-Minister Andrew Davies in June. Entitled *Cymru Ar Lein - Online for a Better Wales*, it consists of five main action points:

- Ensuring that Wales gets the broadband infrastructure it needs - so that more people and businesses have affordable access to the internet
- Making sure that individuals, businesses and communities understand the enormous benefits of communication technology.
- Developing one all-Wales portal on the web to raise the profile of Wales.
- Developing and retaining ICT skills in Wales.
- Encouraging public services, in areas such as health, education, social services tourism, media and education, to offer more e-services which will help stimulate interest and use of ICT⁷⁷.

⁷⁷ Administration Press release 3 July 2001

4. FINANCE

Adrian Kay, University of Glamorgan

A problem for any commentary on multi-annual budgets one-year after they have been set for three years is that there is little scope for change. The Minister for Finance, Edwina Hart, has made it clear that this is not a spending review year and it is unlikely that there will be additional finance available for the Assembly's budget. The headlines of the UK budget in March on the expenditure side were an extra £1bn for both health and education over three years. This will bring a block consequential to Wales of around £40m per annum: small stuff compared to a total combined expenditure of around £4.5bn for 2002-03 in those areas. The commissioning paper from the Minister for Finance for the 2002-03 Budget Round to the Assembly's Committees contained no hard numbers. A brief review of their responses shows very marginal changes in language from that used to enunciate priorities in July 2000; again no numbers were involved.

An endemic problem for politicians setting multi-annual budgets is the incursion of 'events'. As Harold Macmillan famously put it, 'Events dear boy events ...' Circumstances change and the balance of political demands for public expenditure shifts easily. The foot and mouth epidemic and the fuel crisis in September 2000, although not particularly significant in total public expenditure terms, are good illustrations of political reaction to events and how the intergovernmental fiscal relations adapt.

The cost of compulsory purchase of the livestock being slaughtered in Wales has been met entirely by the UK Government and does not come through the Assembly's budget. However, the ability of the Assembly Administration to develop an autonomous rural regeneration policy has been hamstrung by the fiscal arrangements of devolution. There has been no increase in the Departmental Expenditure Limit (explained below) of DEFRA to help regenerate the rural economy affected by foot and mouth. Consequently the Barnett formula implies no new money for the Assembly. Consequently, too, when Carwyn Jones, Minister for Agriculture, announced a £65m package for the bolstering rural economy on 26 July, the money was a redirection or 're-targeting' of resources already allocated elsewhere in the Assembly budget.

The Road Haulage Modernisation Fund was announced in November 2000 partly as a response to the fuel protestors (a review was on-going at the time of the fuel protests but its conclusion and the implementation of recommendations were rapidly brought forward). Gordon Brown announced an allocation of £100m over three years, of which Wales' share was £4.8 million. DETR announced that they could fund programmes in England from existing resources, and that there is no increase in their Departmental Expenditure Limit. Therefore, according to the Barnett formula there is no increase in the Assembly budget to cover this Fund. Monies will have to come from elsewhere in Assembly's budget to finance any programmes under the Fund: re-targeting this time according to the priorities of Gordon Brown.

These two examples illustrate of how the intergovernmental fiscal mechanisms for dealing with events often leaves the capacity of the Assembly to act autonomously severely constrained. The reaction of the centre can have political and policy effects in Wales but with no commensurate knock-on financial effect. Although the Barnett formula has an important role in this, it should be understood in a wider context. In particular it is crucial that the different categories of UK public expenditure should be appreciated.

Categories of UK public expenditure

The main aggregate for public spending, Total Managed Expenditure (TME) comprises Departmental Expenditure Limits (DELs) and Annually Managed Expenditure (AME). DELs cover expenditure over which government departments (or devolved administrations) have the ability to exercise control and for which firm three-year plans have been set. On the other hand AME covers expenditure which cannot reasonably be subject to firm multi-year limits. The overwhelming majority of Assembly expenditure is in the DEL category, but at a UK level about 40 per cent of Total Managed Expenditure is in the AME category, primarily because of the social security budget.

Within this overall framework for controlling public expenditure the UK government determines the Assembly's budget. Once the proportion of these budgets requiring Exchequer funding is estimated (the 'supply estimates'), the UK Parliament votes the necessary provision by means of a grant. The DEL component of these budgets is set over three years as part of the Comprehensive Spending Review (CSR), and is only altered if inflation varies by more than plus or minus 1.5 per cent from the cumulative projections for years 2 and 3 of the spending review period.

Changes in the provision for most of the expenditure items covered by the DEL, and those for which the Assembly has discretion to set expenditure levels (termed 'assigned' budget items), are determined by the Barnett formula. Some expenditure items within DEL (termed 'non-assigned' budget items), however, are not determined by the Barnett formula and are specific to certain spending areas and are 'ring fenced'. The level of expenditure for these items is determined separately by the Assembly, the Secretary of State for Wales, the Treasury and where appropriate, the relevant department of the UK Government. The Treasury controls the designation of budget items as assigned or non-assigned. This should be a crucial element in any debate about the future of the Barnett formula: to what part of UK government expenditure would a new formula be applied?

The AME element of the devolved administrations' budgets covers expenditure, which is reviewed annually as part of the UK government's budget process, with forecasts made twice yearly for the next three years. The AME element of the budget can therefore increase or decrease in the light of the annual review and is itself split into two categories. The first of these is the 'main programme' element of AME which covers policy-specific areas of expenditure (for example, Common Agriculture Policy payments by the Assembly). This is 'ring fenced' and included in the vote from the UK Parliament.

The Secretary of State for Wales on behalf of the Assembly can seek approval for extra provision for these areas of expenditure from the Treasury if changes, which were not forecast, occur during the financial year. The Assembly is not expected to meet any unanticipated increase from elsewhere in their budgets. Any excess provision does, however, have to be surrendered to the UK Consolidated Fund. This is the fund kept by the Treasury into which most central government revenue is paid and from which most expenditure is made. The second category of AME expenditure is known as 'other AME', which covers locally financed expenditure by local authorities. This expenditures are not ring-fenced and may be allocated as the Assembly sees fit.

Confused? You are not alone. Several Assembly Members had the temerity to ask whether the £41million underspend from the AME element of the Assembly's budget in 1999-2000 could have been carried forward for spending in such areas as health or education in Wales. They received the following reply from the Finance Minister Edwina Hart:

“I find it sad but amusing that after such a considerable time, some Assembly Members evidently still do not understand the workings of the Assembly budget.”⁷⁸

⁷⁸ Administration Press Release, 20 February 2001.

5. THE LEGISLATIVE PROCESS

Jane Jones, University of Wales, Swansea

July 1 was the second anniversary of devolution to Wales – two years since the original transfer of functions to the National Assembly. It is appropriate therefore to review the development of the Assembly as a law making body over the first two years of its existence. The Assembly itself is in the course of reviewing its procedure including its own legislative process and its role in relation to the legislative process at Westminster (see the previous Assembly Section). This quarter has also seen a statement to the Assembly by the Secretary of State for Wales indicating further development in the UK Government's approach to law making for Wales at Westminster.

(i) Subordinate Legislation

The Legislation Committee's submission to the Assembly Review of Procedure produced certain themes that have been echoed elsewhere – the need for information about forthcoming legislation, greater scrutiny of policy reflected in legislation, greater scrutiny of decisions about handling and a better system for tracking legislation. There has been some disagreement about the means by which these objectives may be achieved⁷⁹ but not, it seems, about the desirability of the objectives in themselves.

However, the Assembly has already made considerable refinements to its approach to many of these matters. Any evaluation of its progress should keep in mind the fact that the procedures for enacting Assembly subordinate legislation are by design more elaborate than any elsewhere in the UK, and that the design was dedicated to the aim of conferring greater democratic legitimacy on the product. The result was new processes that at first seemed nightmarishly complex in comparison with the old system whereby Ministers simply signed a draft which became law with little or no parliamentary scrutiny. Undoubtedly, the Assembly's experience in its first year of operating these processes was painful. The creation in the latter part of 2000 of a Legislation Management Unit in the Office of the Counsel General marked the beginning of a new approach to the process. The Unit took over and replaced the Assembly's original subordinate legislation tracking database which for technical and administrative reasons never really got off the ground. It proceeded to work with officials in the Office of the Presiding Officer, the Minister for Assembly Business and the Business Committee on proposed changes to Standing Orders. Those changes, and accompanying changes to internal process, represent an attempt to deliver the objective of greater democratic

⁷⁹ See this section of the last IWA monitoring report, and, by way of summary of the issues and the legal advice, the Minutes of the Assembly Review of Procedure's seventh meeting, on 13 June, paras 18 to 23.

legitimacy within the practical realities of limited time and in some cases limited intrinsic interest in the content of the product. Some of these changes, and some currently under consideration by the Assembly Review of Procedure, are outlined below.

(ii) Assembly General Subordinate Legislation

The handling of the most common variety of Assembly subordinate legislation – Assembly general subordinate legislation, or general statutory instruments⁸⁰ - has proved the most controversial so far. The original Standing Order 22 provided three possible options for dealing with these instruments. The options were dubbed “standard”, “extended” and “urgency”. These were not terms of art but referred respectively to a process whereby

- The instrument is submitted in draft to the Legislation Committee and to plenary but not to a subject committee.
- The instrument is submitted in draft to a subject committee and also to the Legislation Committee and to plenary.
- The instrument is submitted to none of the above because the Assembly Cabinet determines that in the particular circumstances it is not reasonably practicable to do so (other procedural requirements such as preparation of or consultation on a regulatory appraisal might also be disapplied) – “not reasonably practicable” being then and to some extent still equated with “urgency”.

At an early stage there was disquiet about Cabinet decisions to disapply procedural requirements on grounds of “urgency”. This persisted despite the change in the description of this procedure to the less emotive “executive procedure”. The use of executive procedure has been regarded by many Assembly Members as a contraindication of the Assembly’s success in democratising the process of making subordinate legislation.

As a result of changes to Standing Order 22 there are now more options available. The new nomenclature reflects the changes that have been made. “**Executive**” refers to those drafts in respect of which procedural requirements are disapplied. Urgency was the obvious reason for its use in relation to foot and mouth orders in the first half of this year, and continues to be the main justification for its use in any case. There remains resistance to the idea that it might be used to process non-controversial and routine instruments quickly. This still leaves the dilemma of balancing the need for democratic involvement and scrutiny against pressure on time in committee and plenary sessions.

⁸⁰ Defined in section 58(6) of the Government of Wales Act 1998.

The introduction of **“accelerated”** procedure was an attempt to address that dilemma. Draft instruments presented to plenary can be grouped under one motion for approval in plenary in two ways:

1. In a “themed” way, where a batch of drafts are necessary in a particular field (for example those implementing provisions in the Local Government Act 2000 on standards of conduct of local government officials and members).
2. In a “non-themed” fashion, where unrelated drafts are grouped together because the Assembly Business Committee has agreed that individually they are uncontroversial or sufficient scrutiny has already been made at the pre-legislative stage, most probably in the relevant subject committee.

Accelerated procedure thereby saves plenary time while preserving the principle that instruments are presented to and approved by plenary before being made.

“Standard” and **“extended”** have the same meaning as before but there has been further refinement in the informal classification of processes falling within these categories. The Legislation Management Unit is monitoring use of the options. In a review covering Assembly general subordinate legislation made since September 2000, the Unit found that of a total 208 general statutory instruments:

- 17 per cent unrelated to curbing the spread of foot and mouth disease were subjected to executive procedure.
- 20 per cent related to curbing the spread of foot and mouth disease were subjected to executive procedure.
- 31 per cent “non-themed” were subjected to accelerated procedure.
- 10 per cent “themed major policy instruments” were subjected to accelerated procedure.
- 7 per cent “non-themed individual policy instruments” were subjected to standard procedure.
- 13 per cent “individual major policy instruments” were subjected to standard procedure.
- 1 per cent “themed grouped major policy instruments” were subjected to standard procedure.
- 1 per cent were subjected to extended procedure.

These statistics may provide the best measure yet of the Assembly’s success in taking control of the labyrinthine system it was given and making it work to achieve the original democratic objectives. An increase in the use of accelerated procedure will suggest an increased level of consensus in the organisation of business and might reflect greater involvement of Subject Committees at the pre-legislative stage, the best opportunity for influencing the policy to be given effect in the legislation. This might mean that **“extended”** procedure remains a rarity.

(iii) Standing Order 29 – “Private Member’s Subordinate Legislation”

Three papers on the use of Standing Order 29 were considered at the seventh meeting of the Assembly Review of Procedure on 13 June⁸¹. This is the procedure whereby a private Assembly Member can generate new Assembly subordinate legislation, rather in the fashion of a Private Member’s Bill in the Westminster or Scottish Parliament. At the same time it is novel in that it is applied to subordinate legislation with the additional legal complexities about the scope of the Assembly’s powers under enabling legislation. It is at present unique in the United Kingdom. Resource implications loom large.

At present Standing Order 29 provides that the Presiding Officer shall “from time to time” hold a ballot to determine the name of a Member who is to be allowed to bring forward a proposal for subordinate legislation in this way. The proposal takes the form of a motion which, if passed, instructs the relevant Assembly Minister to bring forward a draft instrument. The Assembly Member who is successful in the ballot requires assistance. The practice which has emerged is that s/he receives such assistance from Assembly lawyers in the Office of the Counsel General and from the relevant policy administrator. The Assembly Library may also have a substantial input in providing supporting material. The lawyer and policy administrator meet with the Assembly Member and assist in identifying the issue, developing a policy to address it and identifying the legal framework which will apply. If the Assembly approves the motion the policy may be further refined in the light of debate in plenary or wider consultation before the legislation is drafted and submitted to the Assembly’s legislative process.

In practice one such ballot has been held in each of the Assembly’s terms. Proposals before the Assembly Review of Procedure have suggested that this should be increased to three or four, enabling every Assembly Member to have the chance to put forward a proposal in each four-year session⁸². The resource implications were noted by the Assembly Review, and the fact that in Scotland a dedicated unit has been established to deal with the extra work generated by demand for private Member’s Bills. There was however no objection in principle to an increase in Standing Order 29 ballots – it was noted that outside bodies may not be aware of the procedure and that such an increase might raise awareness and encourage organisations to invest time in preparing possible regulations (a real novelty in comparison to the Whitehall/Westminster process). Assembly Members are now to be consulted in order to ascertain the likely level of demand for an increase in Standing Order 29 ballots⁸³.

⁸¹ The papers are ARP-06-01 (p1a) submitted by the Office of the Counsel General, ARP-06-01 (p1b) submitted by the Minister for Assembly Business, and ARP-06-01 (p1c) submitted by the Presiding Office.

⁸² The proposals were made by the Deputy Presiding Officer and the Conservative Group – see the Note by the Minister for Assembly Business ARP-06-01 (p1b) para 1.

⁸³ Minutes of the seventh meeting of the Assembly Review of Procedure.

(iv) Standing Order 30

Standing Order 30 requires the Presiding Officer to publish any subordinate legislation made or confirmed by the Assembly which is not otherwise published for sale under the Statutory Instruments Act 1946 (that is, by HMSO). This refers to the substantial number of laws which take the form of bylaws, specific (that is, rather than directed at an individual). Nowhere else in the UK is there such a requirement. In this respect again the Assembly's legislative process constitutes a real improvement in accountability and transparency of law making. But complying with the requirement is not straightforward in practice, and there are resource implications in terms of officials' time. Administrators have to be able to recognise this kind of law when they see/create it (it is not unusual for such law to be made under delegated authority by an official of a specified level of seniority). The Assembly Minister is required under Standing Order 30 to notify the Presiding Officer who can then arrange for its publication. Officials have recently been requested to undertake a general review of legislation produced since July 1999 so that compliance with the publication requirement can be checked⁸⁴.

(v) Primary Legislation – Wales Provisions in Westminster Bills

The issues in relation to representation of the Assembly at Westminster and the construction of new powers for the Assembly in post-devolution Acts of Parliament have been touched upon in the two previous quarterly monitoring reports⁸⁵. The Assembly Review of Procedure has taken evidence on a number of them. A paper submitted by the Law Society of England and Wales (referred to in the previous Assembly Section) summarises some of the concerns that have been raised, such as the need for greater Assembly participation in the work of Westminster Bill teams and the need for greater clarity and consistency in the drafting of new enabling powers. It also points to the difficulties that can be encountered by legal practitioners in ascertaining the law applicable to Wales. Codification is a costly ideal, but the Law Society refers to experience abroad where federal and provincial governments have accepted responsibility for publishing and updating the statute book. The Law Society suggests that in Wales this should comprise a continuously updated database of the statutory provisions, statutory instruments, orders and circulars enacted or issued by the National Assembly, together with the edited text of the Acts of Parliament or parts of Acts which

⁸⁴ ARP-06-01 (p2) submitted jointly by the Counsel General (Winston Roddick Q.C.), the Legal Adviser to the Presiding Officer (David Lambert) and the Legal Adviser to the Legislation Committee (John Turnbull).

⁸⁵ See also Rawlings "*Quasi-legislative Devolution: Powers and Principles*" and Jones "*Making Welsh Law: process, presentation and accessibility*", both in "*The Law Making Powers of the National Assembly for Wales*", Lord Morris of Borth Y Gest Seminars 2001 (published by the Wales Law Journal and the Law Society)

confer powers on the National Assembly, and that the Assembly's website should be the key medium for such a publication.⁸⁶

As in the case of Assembly subordinate legislation, however, the position with regard to the Assembly's influence over new Wales provisions in parliamentary Bills has not been static. Not surprisingly the Secretary of State for Wales, Paul Murphy, sought to emphasise the positive in addressing the Assembly on 26 June on the Queen's Speech. He pointed to the enactment in the last parliamentary session of the first post devolution Wales only Bill, extending the powers of the Children's Commissioner for Wales, and to the substantial part of the Learning and Skills Act 2000 which was devoted to Wales only provision. The Secretary of State was clear that more Wales only primary legislation, designed to implement Assembly policy, could be expected. He said that the UK Government's programme announced in the Queen's Speech includes a further Wales only measure, the NHS (Wales) Bill, that discussions were taking place with the Assembly Minister for Education and Life-long Learning to ensure that provisions in the Education Bill relating to Wales would be framed so as "to give you the freedom to proceed in the way that suits the needs of Welsh people"⁸⁷, and that consideration would also be given to what further provisions might be necessary for Wales, "possibly in a Wales-only Bill"⁸⁸.

It would seem therefore that scepticism that the Children's Commissioner for Wales Act would prove to be an isolated example of Whitehall accommodating the wishes of the Assembly through primary legislation is proving to be unfounded. The UK Government's position as represented by the Secretary of State for Wales appears to be quite the opposite. That position is however bound to give rise to further debate about how the Westminster legislative process should be adapted to reflect the Assembly's pre-parliamentary democratic process. Put crudely, the question is whether the UK Parliament should do more than "rubber stamp" the Assembly's proposals. If so, the next inevitable question is why the Assembly should not simply have the power to enact the primary legislation itself with whatever conditions as to UK Parliamentary approval, if any, might be deemed appropriate.

Paul Murphy also highlighted a significant procedural device which had been adopted to address the difficulty the Assembly has encountered in considering proposals for primary legislation in time to have sufficient impact on the provisions in a Bill. He stated that the NHS (Wales) Bill would be published in draft, expressly

"... to allow you to debate the issues in the Assembly before the Bill is formally presented to Parliament ... If we can develop the practice of publishing legislation that is distinctive to Wales in advance, you as Assembly Members will have the right to make a full contribution to its development before it goes to Parliament."⁸⁹

⁸⁶ See ARP 06-01 (p5) – Written evidence given to the Assembly Review of Procedure by the Law Society of England and Wales.

⁸⁷ Assembly Record of Proceedings 26 June 2001.

⁸⁸ Ibid.

⁸⁹ Ibid.

He expressed a willingness to engage with the relevant Assembly Subject Committees in working up and scrutinising Welsh policy proposals. Further, he agreed with the proposition that has been urged by many both inside and outside the Assembly that

“... it may be most effective to give the Assembly permissive secondary legislative powers to enable it to act in a way that is right for Wales within a broad framework of primary legislation⁹⁰”.

(vi) Democratic Legitimacy

Governments are judged by the democratic legitimacy of the laws they make as well as by what changes they make and by the efficacy of their administration. To that extent it is true that “legislation is the Assembly’s main and most important product”⁹¹. There are other reasons, such as the significance of creation of fully bilingual Welsh laws, to support that proposition. The story continues to unfold of the Assembly’s development as a legislature in its own right and as promoter of legislation in the UK Parliament. The Assembly’s Review of Procedure is gathering a wealth of evidence pointing to further refinements that can improve its performance within the current structure of Welsh devolution. Some of the evidence, and some of the suggested refinements, lead inexorably to questions about the structure itself. The Review will report later in the year but formal consideration of any alteration in the structure will have to await the establishment of an independent Commission endorsed by the Partnership Agreement in October 2000.

⁹⁰ *ibid.*

⁹¹ Winston Roddick Q.C., Counsel General to the National Assembly, in written evidence to the Assembly Review of Procedure ARP-06-01 (p1a) para 3.

6. RELATIONS WITH WESTMINSTER AND WHITEHALL

Mark Lang, Welsh Governance Centre, Cardiff University

(i) The Queen's Speech

On the 20th June 2001 the new Labour Government unveiled its legislative plans for the first year of its second term. In total there were twenty Bills outlined that ranged from education, health, justice, and government. For the first time since the passage of the Government of Wales Act the legislative programme included a major Bill that was unique to Wales The NHS (Wales) Bill. As reported in the earlier Section dealing with the Administration, key clauses in this draft Bill have now been transferred to the English NHS Reform Bill and that the remainder of the Bill will be postponed to 2003. Nonetheless, the Westminster Government will provide the necessary primary legislation needed to implement the Assembly's plan, *Improving Health in Wales*. In particular the provisions will allow for changes to Local Health Groups to allow the removal of the Health Authority structure from 2003. The provisions are likely to be presented to Parliament late in the autumn term.⁹²

Three other Wales-only Bills that had been requested by the Assembly were notable by their absence in the Queen's Speech. These included a Bill to make St David's Day a national holiday and one giving the Assembly greater involvement in the drawing up of the Census. The St David's Day Bill is likely to become an issue during the next Assembly elections in 2003, and its absence is likely to be used by Opposition parties to attack Labour. However, the Welsh Secretary, Paul Murphy, suggested that the Bill might well be included in a future Queen's Speech.⁹³ Speculation has been raised already that the Labour Government will be eager to ensure legislative time is made available in advance of the Assembly elections thereby anticipating their opponents attack. Responding to criticisms on the Census issue the Welsh Secretary suggested that even in the absence of a Bill, Whitehall was eager to ensure a greater involvement of the Assembly in future.⁹⁴

(ii) The Secretary of State for Wales

⁹² Administration Press Release, 20 June 2001

⁹³ *Western Mail*, 21 June 2001.

⁹⁴ *Western Mail*, 27 June 2001

Within days of the Labour Government being re-elected Paul Murphy was re-appointed as Secretary of State for Wales. There had been speculation that the post would be scrapped or merged with that of the Scottish Secretary. This became an issue early in the election campaign in Wales, and Tony Blair conceded that such an option was not being considered in the immediate future, though it was not ruled out altogether. After his re-appointment Paul Murphy stated that such speculation had been stirred up by people who did not understand the nature of the devolution settlement. He argued that the post of Secretary of State for Wales was intrinsically part of the settlement, on which people in Wales had voted and it had been written into the Government of Wales Act.⁹⁵

(iii) Housing Finance Policy

Housing finance became an issue in Assembly / Westminster and Whitehall relations during June when the report of the Assembly Local Government and Housing Committee on Housing Stock Transfer (HST) was published. The report presented the conclusions of the Committee's review of HST, which had been undertaken despite the reservations of the Assembly Administration.⁹⁶

The Administration had previously concluded that the best way to ensure investment to deal with the backlog of repairs for local authority held social housing was by the large-scale transfer of stock to the private sector. When published the Report's main conclusion was that the most straight forward way of securing the necessary finance would be to change the local government finance system to allow councils to borrow on the same terms as housing associations. Therefore the Committee's report called upon the Minister responsible, Edwina Hart, to put pressure on the Treasury to change the rules. During the debate on the Report Edwina Hart had stated:

“A number of Members referred to the rules governing public sector borrowing requirement. I gave a commitment to try to bring further pressure to bear on the UK government on this issue. [But she added] Stock transfer will be one of those options...”⁹⁷

In a debate in Plenary on improving the quality of housing in Wales, in June, the issue was raised again and Plaid's Housing Spokesperson, Janet Davies, said

"I believe that it is the UK Treasure Rules which dictate the Minister's behaviour on housing.”⁹⁸

⁹⁵ *Western Mail*, 11 June 2001.

⁹⁶ See Lang, M.. *Working Within a Strategic Vacuum: The Local Government and Housing Committee in:* Jones, J. B. and Osmond, J. *Inclusive Government and Party Management* , IWA, 2001

⁹⁷ *Assembly Record*, Plenary 24 May 2001

⁹⁸ *Western Mail*, 13 June 2001

As yet there is no sign of the Treasury acceding to the Assembly's request.

7. RELATIONS WITH THE EUROPEAN UNION

Mark Lang, Welsh Governance Centre, Cardiff University

(i) Working Group on EU Enlargement

At its meeting at the end of June the Assembly European Affairs Committee further considered its planned establishment of a Working Group on EU Enlargement. The main objective for the Working Group would be to identify and help seize the opportunities that may be offered from the enlargement of the European Union for Wales, which the Gothenburg Council in early June confirmed was irreversible regardless of the result of the Irish referendum. In considering the membership of the Group the Committee felt that it should reflect all three sectors in Wales, including business, local government and the voluntary sector. One omission from the proposed membership list that had been drawn up by the civil service in advance of the Committee meeting was the Wales TUC. This was particularly significant as the CBI and Federation of Small Businesses had been included, though members soon picked up on this and requested that the Wales TUC appoint a member.

(ii) Assembly's Involvement with Europe-Wide Organisations

Also at its June meeting the Assembly European Affairs Committee received a paper outlining the Assembly's involvement with Europe-wide organisations. In total seven such organisations were detailed as follows:

Committee of the Regions (CoR)

The CoR is an officially constituted consultative body of the European Union set up by the Maastricht Treaty. It first met in 1994 and has 222 members representing local or regional authorities. The CoR must be consulted on cross-border co-operation, regional policies, economic and social cohesion, education, vocational training, public health, cultural policies and other matters deemed appropriate by the Council of Ministers or the Commission. It may also issue "own-initiative" opinions. The Labour AM John Griffiths is the Assembly's full member of the CoR and Plaid Cymru's Elin Jones is his alternate. As well as plenary sessions the CoR has subject related sub-committees (known as "Commissions"). John Griffiths sits on the Social Policy Commission, while Elin Jones sits on the Agriculture Commission.

Conference of Peripheral Maritime Regions of Europe (CPMR)

The Committee recently heard a full presentation from the CPMR's General Secretary, Xavier Gizard, and mandated the First Minister to apply for membership. This application is currently pending. Although not an official consultative body like the CoR, the CPMR is well respected by the Commission and draws on membership of about 130 Regions from across Europe. It is sub-divided into "arcs" based on coastal communities of interest: the Assembly would form part of the Atlantic Arc. The main thrust of the CPMR is to assist areas on the maritime periphery of Europe to keep in touch with issues and to draw strength from working together. CPMR works through plenary sessions and subject-related working groups. The Assembly's representation would be flexible and could be political or official or a combination of both according to need (though only political representatives have plenary voting rights).

Tele Regions Network (TRN)

Andrew Davies, in his capacity as e-Minister, became President of the Tele Regions Network in April this year. TRN is a regional network created to promote the development of Information Technology in European Regions. It aims to promote co-operation among Regions in Europe to strengthen competitiveness and job creation through information society technologies. Membership is drawn from across Europe including Regions in Austria, Spain, Belgium, France, Germany, Sweden, Holland, Finland and the UK. The Minister will preside at the TRN's annual conference in Valencia in October.

The Life-Long Learning Network

This is a new group initiated by the Tuscany Regional government's minister for life-long learning. Jane Davidson responded positively to an invitation to become involved at, so far, official level. The Network aims to foster co-operation between Regions to share experiences and expertise. It aims to influence Commission policies through advocating common positions formed at regional level. There may be scope for joint inter-regional programmes to be proposed. Membership is drawn from regions in Italy, UK, Estonia, Denmark, Germany and Sweden.

European Regions With Legislative Powers

This is a grouping, which meets under the auspices of the Council of Europe (not an EU institution), made up of heads of Regional governments that have some degree of legislative power. The group encompasses membership from Regional governments in

Belgium, Spain, UK, Italy and Germany. In legislative terms Wales is at the weaker end of the spectrum although Welsh Ministers can attend meetings of the EU Council of Ministers while powerful Spanish Regions, for example Catalonia and the Basque Country, cannot. The First Minister has attended meetings in Brussels and Barcelona. The next meeting will be in Liege in November. The grouping arose from a view that Regional governments should have dialogue on common issues. In the period ahead the group is likely to focus discussion on the role of Regions in the *Future of Europe* debate.

Congress of Local and Regional Authorities (CLRAE)

This is an institution of the Council of Europe, not the EU. The Council of Europe was set up in 1949 with the aim of creating greater unity between its members on the basis of shared principles and ideals and for facilitating economic and social progress. The Council of Europe has a Parliamentary Assembly of around 286 members drawn from national governments and a Congress of Local and Regional Authorities. The Labour AM Tom_Middlehurst is an alternate delegate of the Regional Council of CLRAE as part of the UK delegation.

The Four Motors

The "Four Motor Regions" is an autonomously created grouping of Regions considered to be the most dynamic in their countries and the economic 'motors' in Europe – Baden-Württemberg, Catalonia, Lombardy and Rhone-Alpes. Wales' association with the group dates back to the early 1990s. As well as developing bi-lateral relations, to a greater or lesser degree, with the four Regions, the Assembly is also involved with a number of Four Motor Regions Committees. The association Wales has with this group gives us a useful platform for efforts at regenerating the economy. In no way could Wales be considered the motor region of the UK given its low GDP. However, associate status with The Four Motors provides an opportunity for technology transfer and developing inward investment opportunities.⁹⁹

(iii) LEADER+ Initiative

On July 4 the Assembly's LEADER+ single programming document was approved by the European Commission. LEADER+ is the European Union's Community Initiative for Rural Development, funded from the European Agricultural Guidance and Guarantee Fund (EAGGF). The LEADER+ programme will support total expenditure of £19.3

⁹⁹ Minutes of the European Affairs Committee, 28 June 2001.

million in rural Wales over the next six years, of which the European Union will provide £9.3 million, and the Assembly £7.5million in match funding. Groups will need to identify a further £1.7 million from other sources and £0.8 million of private sector investment. In bidding for the monies the Wales LEADER+ programme Groups were required to base its strategy around one of three themes: improving the quality of life, adding value to local products, and making the best use of natural or cultural resources.¹⁰⁰

¹⁰⁰ Administration Press Release, 4 July 2001.

8. RELATIONS WITH LOCAL GOVERNMENT

Alys Thomas, Martin Laffin and Gerald Taylor, University of Glamorgan

(i) Report on Councillors' Allowances

In July the Assembly's Local Government and Housing Committee was presented with the report on local government members' allowances authored by the Institute of Local Government at Birmingham University. The report *Recognising Councillors' Worth to their Communities*, had the remit to 'make further recommendations on members' allowances and related issues of taxation, pensions, benefits and barriers to public service in relation to the new political structures and way of working for modernised local authorities in Wales'¹⁰¹.

The report authors calculated a Basic Allowance of £9,007 based on 90 hours a month at a two-thirds rate of an average male non-manual salary, to reflect a 'public discount' and adding in costs for telephone, IT and office expenses. Additionally the report proposed special responsibility allowances in six bands to take account of the new roles for councillors under the new political structures:

The Special Responsibility Bands

Band 6: Vice chairs of regulatory and other committees such as area forums, and leaders of minor opposition groups.

Band 5: Chairs of regulatory and other committees, vice chairs of overview and scrutiny committees and cabinet members (where they exist) with executive powers under mayoral model.

Band 4: Chairs of overview and scrutiny committees, and leaders of principal opposition groups.

Band 3: Cabinet members, deputy leaders of councils under new political structures and Leaders under the fourth

¹⁰¹ University of Birmingham, School of Public Policy (2001), *Recognising Councillors' Worth to their Communities: A Report on Members' Allowances, Support and Barriers to Public Service for Local Authorities in Wales*: National Assembly for Wales, p. 4.

option (or Chair of the Board)¹⁰².

Band 2: Leaders of councils and directly elected mayors with council managers.

Band 1: Directly elected executive mayors with cabinets.¹⁰³

To arrive at a final package of remuneration the report sought a viable comparator for authority leaders. Interestingly, but perhaps inevitably, they chose Assembly Members (AMs) as comparable to Leaders, concluding that ‘Leaders under the new political structures in Wales should not be seen as being less important than AMs, and as their peers’. This led to a total package of £35,437 for band 2 Leaders in median authorities.¹⁰⁴ From this was deducted the standard basic allowance to arrive at the special responsibility allowance (SRA). From this starting point flowed the recommendations shown in Table 1 on the following page, based on population and budget.

In addition the report recommended that members should be eligible to draw only one SRA each, and that councils should limit SRAs to no more than 50 per cent of councillors in order to avoid them being used for ‘political purposes’.

Amongst a raft of other recommendations the report advocates flat rate travel and subsistence allowances, a pension scheme with 10 per cent council contribution, changes in taxation law, a dependants and child care allowance, a training and development allowance, legislation to allow women only shortlists, and similar methods to encourage other disadvantaged groups, a limit to the term councillors can sit, a severance allowance to encourage retirement, and the tying of allowances to mechanisms to ensure transparency. The report was considered at the meeting of the Local Government and Housing Committee held on 18 July.

Both the Minister and the Committee welcomed the report and the Minister ‘regarded the conclusions on basic allowance and special responsibility allowance as fair and objective’. In addition:

“The Minister said that she would be taking forward the recommendations on carers allowances and travel and subsistence. There would be further examination of the

¹⁰² The review team notes here that Welsh alternative arrangements on the Leader under the fourth option (Guidance on Part II of Local Government Act 2000 on Chair of the Board) would have responsibilities broadly comparable to a Leader with Cabinet under the new political arrangements. However, the review team took the view that they should not be seen as being on a par with the Leader with Cabinet as Chairs of the Board under the fourth option are not operating under the same executive/scrutiny split as the other executive models. More importantly the full council still has the power to over turn their decisions.

¹⁰³ ‘Recognising Councillors’ Worth to their Communities’, p. 6.

¹⁰⁴ Median authorities were described as those with population levels between 100,000 and 200,000. Below this was one group of small councils, and above a group of large councils, between 200,000 and 300,000 population, and a grouping above 300,000 containing a solitary Cardiff County Council. This led to the following ranges from band 1 to band 6, in small authorities £35,437-£11,949, for median authorities £41,820-£12,460, in large authorities £48,202-£12,971, and for Cardiff £54,585-£13,481.

proposals on pensions, benefits, taxation and the removal of barriers to becoming a councillor.”¹⁰⁵

Table 1
Recommended Levels of Remuneration and SRAs for Leading Councillors in the Median Group of Authorities Based on Population Size and Budgets

Bands	Posts	Basic Allowance	Size of Position	SRA	Total Package
Band 1	Elected Mayors	£9,907	125%	£31,913	£41,820
Band 2	Leaders & Elected Mayors with Council Manager	£9,907	100%	£25,530	£35,437
Band 3	Chairs of the Board under 4 th Option, D/Leaders ¹⁰⁶ and Cabinet Members	£9,907	50%	£12,765	£22,672
Band 4	O&S Chairs and Principal Opposition Group Leaders	£9,907	30%	£7,659	£17,566
Band 5	Chairs of Other Committees, V/Chairs of O&S & Cabinet Members w/Decision Making Powers under Mayoral Model	£9,907	20%	£5,106	£15,013
Band 6	Vice Chairs of Regulatory and Other Committees Leaders of Minor Opposition Groups ¹⁰⁷	£9,907	10%	£2,553	£12,460

The Minister also agreed to take on board the Committee’s views on the need to abate allowances for councillors who were also Assembly Members. The WLGA also welcomed the report, with their Leader, Sir Harry Jones, calling the proposed allowance bands ‘realistic’. The WLGA particularly welcomed the proposals to encourage under-represented groups to stand for office, and regarded the report as a step towards a ‘level

¹⁰⁵ Local Government and Housing Committee, Minutes of Committee Meeting, 18 July 2001, Items 5.1-2.

¹⁰⁶ The review team accepts that there is a strong case for a modest uplift to be applied to Deputy Leaders recommended SRA, as they do have distinctive roles beyond that of the other cabinet members in many cases. If this is the case then the review team suggests an extra 5-10 percentage points should be applied to their assessment for a SRA. E.g., This would give a Deputy Leaders SRA of between £14,042-£15,318. The review team did not make this explicit in its bandings as it felt six bands should be the maximum. More than six bands then it gets complicated and can rapidly spiral out of control so as to make the banding process relatively meaningless.

¹⁰⁷ Legislation recognises the existence of a political group on council with two members only. It is proposed here that for Leaders of minor opposition groups to be eligible to receive a SRA their political group must have at least 10 per cent of seats on council. The same of course, should also apply to the principal opposition groups.

playing-field for public office’, and as a means of encouraging the next generation of councillors.¹⁰⁸

(ii) Review of Local Government Partnership Scheme

The first annual review of the local government partnership scheme, initiated in July 2000, was also presented to the Local Government and Housing Committee on 18th July. The review, authored by the joint National Assembly-WLGA secretariat, concentrated on four areas: policy agreements, community leadership, modernising Welsh local government, and liaison and consultation with local government.

Policy Agreements

The review linked policy agreements with overall budget settlements, and particularly the setting of indicative budgets to provide a three year planning framework, with actual budgets for individual authorities set annually. With regard to the financial implications of policy agreements themselves the review stated:

“Authorities will be paid a Performance Incentive Grant. A formula share of £10 million is available in 2001-2002 for signing up to an agreement, and £30 million from the 2003-2004 budget will be available after assessment of performance against the agreed targets. Policy agreements are a preferred alternative to hypothecation as a means of securing improvement in key service areas. They shift the emphasis from expenditure to outcomes.”

Areas against which performance would be tested were outlined as:

“The framework covers educational attainment, social service outcomes, recycling / composting and modal shift in transport as well as more generic issues: working with the voluntary sector, promoting equality of opportunity and sustainable development, tackling social disadvantage. Each local authority is agreeing targets and actions on these areas, related to its own local circumstances.”¹⁰⁹

The policy agreements were also linked to a promised simplification of the plans and strategies required from local government. However, the WLGA was beginning to express concerns, reflecting those voiced by individual local authorities, that the Policy Agreements were not panning out as anticipated and were in fact becoming a means of backdoor hypothecation. The Assembly was ‘seeking a more uniform approach’ which

¹⁰⁸ WLGA news release, 12th July 2001 ‘WLGA Welcomes Recognition of Councillors’ Role and Worth’.

¹⁰⁹ Local Government and Housing Committee, ‘PC9 (9): Review of Local Government Partnership Scheme’ Items 6 and 7.

was ‘not in the spirit of the concept’. The WLGA suggested that further thought needed to be given to the development of the concept of policy agreements. The initial ones are characterised as ‘Best Value indicators with stretched targets’. This was judged unacceptable in the long term on two counts: firstly, local authorities would become mere *agents* of the Assembly and secondly, national framework targets would not necessarily reflect diverse priorities at a local level. Furthermore, the WLGA expressed a desire for flexible approach to assessment of policy agreements and that they should be judged on the basis of corporate performance rather than a target by target achievement payment. This, it argued, represented a decisive break with comparable initiatives in England.¹¹⁰

The matter remains a subject of review for local government itself and a subject of ongoing discussion with the Assembly. The Local Government & Housing Committee ‘welcomed the progress made’ on establishing effective policy agreements and ‘noted that targets and actions would be determined by individual authorities in conjunction with the Minister and the Welsh Local Government Association’ which would ‘enable individual policy agreements to reflect local circumstances’. A paper on local authority policy agreements is forthcoming from the Minister.¹¹¹

Community Leadership Role of Local Authorities

The review covered two administrative aspects of the Assembly’s work in this regard: enabling local authorities to work with other groups, and maximizing the financial resources available to local government, particularly through initiatives such as Objective 1 funding.

Modernising Welsh Local Government

The review outlined the four models of executive arrangements available to Welsh local government, assessed Best Value as a scrutiny mechanism, and set out the need for probity through standards committees and ethics procedures.

Liaison and Consultation with Local Government

The role and activities of the Partnership Council were outlined and the links between it and the Local Government and Housing Committee. Frequent and open consultation was

¹¹⁰ WLGA, Co-ordinating Committee Paper B2, *Policy Agreements: the Assessment Process and Future Development*, 29th June 2001.

¹¹¹ Local Government and Housing Committee, Minutes of Committee Meeting, 18th July, 2001, Item 4.1.

also referred to, but was considered exclusively in terms of the WLGA. In this respect the review noted:

“It has not always been possible to observe a consultation period of eight weeks. In particular, this was a problem with some aspects of the Local Government Act 2000 which will come into effect in July 2001 which resulted in real concerns in local government about inappropriate time scales to examine new legislation.”¹¹²

The establishment of the Local Government Data Unit was noted, as was the intention to commission a study of local government to enable proposals to come forward for developing the role of local authorities and their dialogue with each other and with the Assembly. The existence of working groups containing local government representatives was noted, but their range was restricted to those of the Partnership Council, and mechanisms for the sharing of public announcements, though these had never been used.

In addition: A programme of secondments and exchanges with local government is being prepared,¹¹³ to reinforce Conferences, video-conferencing networks, and proposals for the development of e-government.

The review concluded with the rather anodyne statement that:

“Many of the initiatives specified in the Partnership Agreement are in progress and undertakings have been observed wherever possible. There is realism that this has been the first year of the Partnership Scheme and that there is room for improvement and ensuring that all provisions set out are adhered to. Joint working between the two sectors will be developed further in the coming year in order to build on the work of establishing a mature partnership between the Assembly and Local government.”

The Local Government and Housing Committee welcomed the review and supported measures to improve communications.

Further comments supported the belief that the new ethical framework would increase local authority accountability, and asked for clear guidelines for local authorities in respect of Public Private Partnerships, and Private Finance Initiatives.

(iii) Testing Partnership – a) Education

¹¹² Local Government and Housing Committee, ‘PC9 (9): Review of Local Government Partnership Scheme’. Item 27.

¹¹³ Local Government and Housing Committee, ‘PC9 (9): Review of Local Government Partnership Scheme’. Item 34.

The nature of the partnership between Local Government and the Assembly was tested by some issues arising within individual authorities which required responses from Welsh Ministers. Two of these centred around Local Education Authorities.

In July the Welsh Schools inspectorate ESTYN published a highly critical report on the Vale of Glamorgan LEA. It concluded that senior managers within the council failed to display enough understanding of the national education agenda and had limited vision. It found that senior officers did not routinely visit schools and relationships between senior officers and schools were generally poor and the authority did not respond effectively to views expressed by schools. Furthermore, the local schools budget for the Vale in 2000-01 was the lowest in Wales and there was only one English authority allocating less funding.

Education Minister Jane Davidson indicated that she had the power to intervene but gave the Vale of Glamorgan education department 70 days to provide a suitable action plan which addressed the criticisms in the report. If the action plan failed to address those issues she would then assert her right to intervene. Such actions have never occurred in Wales before but there have been cases in England.¹¹⁴ The Welsh Local Government Association reacted defensively, criticising the ‘confrontational’ nature of the inspection report which undermined morale and offered very little practical guidance to the authority and complained that ESTYN had rejected meetings with the WLGA and had opted for confrontation rather than partnership.¹¹⁵

Later the same month Jane Davidson published her findings in relation to the Marjorie Evans case. The investigation was undertaken in view of the widely expressed concerns about the handling of the case, particularly the length of time involved and related to the handling of the case by Monmouthshire LEA and the Governing Body after October 2000. Monmouthshire LEA was accused of acting unreasonably in withholding certain information from the Governing Body including the allegations made against Mrs Evans and that this contributed to the delay. Furthermore, the LEA acted unreasonably in failing to give Mrs Evans access to documents until a very late stage in the proceedings. Full allegations were not supplied to her until a few weeks before the commencement of the disciplinary hearing. The Minister recommended that:

- the LEA should review the model disciplinary procedures it recommends to schools in Monmouthshire;
- the LEA should provide governing bodies with clear, unequivocal and up-to-date advice on procedures, to assist the governors in carrying out their responsibilities in an effective manner;
- all LEAs in Wales should review their own model procedures and practices in relation to disciplinary issues regarding staff, including head teachers, employed at their schools.

¹¹⁴ *Western Mail*, Thursday 19th July 2001

¹¹⁵ *Western Mail*, Thursday 20th July 2001

On issues related to the management of the council, rather than with education, Ynys Môn Council elicited a personal visit from the Minister for Finance, Local Government and Communities, Edwina Hart. After private meetings with the council the Minister provided them with time to resolve their own problems in a similar fashion to Jane Davidson's engagement with the Vale of Glamorgan.

(iv) Testing Partnership – b) Housing

A number of issues arose in housing which reflected on relations between central and local government. Central to these was the debate in plenary session on the tabling of the National Housing Strategy *Better Homes for People in Wales*. This debate was heralded by an article in the *Western Mail* the previous day which claimed that the Minister, Edwina Hart, would be announcing a change in Assembly policy on stock transfer of social housing following an attack on the Assembly's existing policy in the *Welsh Housing Quarterly*.¹¹⁶

Amongst other comments the Minister acknowledged calls for higher funding for housing, but added: 'One problem that we cannot hope to tackle solely through public funds, is the condition of our council housing stock.'¹¹⁷ The Minister announced that all local authorities would be required to quantify the repairs and improvements needed by their stock and to produce plans for regeneration of their stock within the next 10 years. This would require some degree of stock transfer, and the community ownership model was the one most commonly used elsewhere in the UK, but the Minister added:

"I would like to see consideration of an emerging structure that gives far greater responsibility and ownership to tenants: that is the community mutual model, whereby ownership of local authority stock transfers to the tenants. [This] follows the traditional a third, a third, a third structure, but potentially provides greater opportunity for tenants to select composition of each third. The only shareholders in the transferred organisation would be its tenants".¹¹⁸

Another item of public debate was the role of rural housing and the preservation of Welsh language based culture in rural Wales. The Assembly's response was to invite comments on possible restrictions to the Right to Buy within existing legislation, to cope with: 'distortions in the housing market in rural and coastal areas likely to be influenced by in-migration, the purchase of second homes and the Right to Buy (which has removed many homes from the social housing stock)'.¹¹⁹

¹¹⁶ *Western Mail*, Wednesday 11th July 2001

¹¹⁷ Record of Plenary Session, 12th July 2001, p. 54.

¹¹⁸ Record of Plenary Session, 12th July 2001, p. 55.

¹¹⁹ RTB Consultation Letter, 'Restricting the Sale of Social Housing in Rural Areas to Local People', 6th July 2001.

The Local Government and Housing Committee received reports on the Audit of Housing Advice and on Exclusions from Social Housing. The latter was considered, alongside housing for the elderly, by the Committee on 4th July, and the former at the meeting of the Committee on 18th July. The Audit of Housing Advice was undertaken by an independent external consultant, Bob Widdowson, and produced the following key recommendations:

- A definition and objective for the provision of housing advice services, which includes the aim to make appropriate, free and impartial advice available to everyone.
- The Quality Mark standard set by the Legal Services Commission should be adopted as the appropriate standard for housing advice services in Wales. The LSC is the appropriate body to audit these services.
- Local authorities should periodically review the provision of housing advice services in their area, and establish strategies to meet identified needs.
- Substantial additional funding is needed to support the development of services to enable everyone to have access to the advice they need.
- There is a need for a specific organisation to drive the development of new services. This could be led by the Legal Service Commission, working in partnership with the Assembly. Alternatively, a new organisation could be set up to take on this role, and the Assembly is encouraged to consider the merits of the Scottish 'Homepoint' organisation in this respect.¹²⁰

The Minister stated that the recommendations would be taken forward in conjunction with the LSC and form the basis for speedy consultation.

The Report on Exclusion from Social Housing, produced by Joy Kent on secondment to the Assembly from the Housing Management Centre at Cardiff University, produced 27 detailed recommendations.¹²¹ In debate the Committee raised issues regarding the use of eviction to tackle anti-social behaviour, the potential to use tenants organisations to cope with social exclusion, and the problems arising from the policies adopted by local authorities to deal with rent arrears.¹²²

Conclusion

¹²⁰ Local Government and Housing Committee, 'Audit of Housing Advice – Consideration of Review', LGH-11-01, 4th July 2001.

¹²¹ Local Government and Housing Committee, 'Summary of Report – Exclusion from Social Housing', 18th July 2001.

¹²² Local Government and Housing Committee, Minutes of Committee Meeting, 18th July 2001, Items 4.2-5.

While the formal review of the Local Government Partnership Scheme cast an eye over the defining themes of Assembly-local government relations, events cast another light on the realities of partnership. Jane Davidson, the Education Minister, gave notice of her will to intervene in the Vale of Glamorgan LEA if required changes had not come about within the 70 day period. Policy agreements continued to be a revealing barometer of Assembly-Local Government relations and the reality of partnership. Local Government's concern about the Assembly's emphasis on uniformity and its resistance to becoming an agent of the Assembly have prompted a reassessment of the concept in the medium to long term. The report on councillors' allowances appears to have brought consensus to a previously divisive issue and underlined the partnership concept in stressing that local authority leaders should be regarded as the peers of Assembly Members.

9. THE GENERAL ELECTION AND THE POLITICAL PARTIES

John Osmond, IWA

Measured by what most counts in a British election, the seats or scalps that the parties carry home, the results that emerged at the end of the 2001 general election in Wales represented a complete status quo: that is to say 34 Labour, four Plaid Cymru, two Liberal Democrats, and again nil for the Conservatives. The immediate interpretation was that Labour retained its iron grip on Welsh politics, Plaid Cymru had fallen back, the Liberal Democrats remained confined to rural mid Wales, while the Conservatives were in free fall. The reality for Welsh politics was that all the parties could claim to have moved forward, though on different fronts, while the real battle is still to come in two years time. Table 2 tells some of the story:

Table 2
All-Wales Election Results for 2001, 1999 and 1997

	2001 General Election		1999 Assembly Election*		1997 General Election	
	Turn-out: 61.6%		Turn-out: 48%		Turn-out: 73.6%	
	votes	%	votes	%	votes	%
Labour	666,955	48.6	384,671	37.6	886,935	54.7
Plaid Cymru	195,892	14.3	290,572	28.4	161,030	9.9
Lib Dem	189,434	13.8	137,857	13.5	200,020	12.4
Conservative	288,665	21.0	162,133	15.8	317,127	19.6

*The figures shown are for the Constituency Vote. The Regional Lists gave Labour 361,657 votes (35.5%), Plaid Cymru 312,048 (30.6%), Liberal Democrats 128,008 (12.5%), and Conservatives 168,206 (16.5%)

These comparative statistics set against their respective turn-outs are revealing. Comparing the 2001 and 1997 Westminster elections, while Labour maintained a commanding position the number of people actually voting for the party fell by 219,980, or 24.8 per cent. In the case of the Conservatives and the Liberal Democrats, the numbers voting for them also dropped, though to a much lesser extent. On the other hand Plaid Cymru not only saw its relative party position move into third place, but more significantly increased the numbers actually voting for it by 34,862, that is 21.6 per cent, in a situation where the overall turn-out fell by 12 percentage points.

All the parties drew comfort from these results. Labour began its campaign claiming that it had absorbed the lessons from the poor results it achieved in the first Assembly elections. In particular it would be identifying more closely with Welsh concerns. Rhodri

Morgan insisted that the party's Welsh manifesto was "very Welsh, written in Wales to answer Welsh needs, made in Wales and developed in Wales."¹²³

Winning Ynys Môn from Plaid Cymru provided Labour with most satisfaction. It allowed the party's Communications Director, Huw Evans, to point out that in contrast to Plaid Cymru Labour could now present itself as the 'true party of Wales':

"Not only do we represent all four corners of the country; we represent Welsh and English-speaking areas, urban and rural areas. That's the most encouraging thing for us from these results and totally vindicates our decision to fight an essentially one-nation campaign."¹²⁴

Despite this assertion Labour's loss of Carmarthen East to Plaid Cymru, means it has retreated from the whole of rural central Wales and now represents largely urban areas. It also saw its support fall in relative terms across most of Wales. The fall was most noticeable in the Valleys where a swathe of seats saw a drop of around 10 per cent, with Merthyr and Islwyn both down by 13 per cent. Only in five seats did Labour's percentage vote rise, and then by relatively small amounts – Caernarfon (2.8 per cent), Cardiff South and Penarth (2.8 per cent), Ynys Môn (1.8 per cent), Clwyd West (1.7 per cent) and Conwy (6.8 per cent). Conwy had been widely thought to be a four-way marginal. However, it was a collapse in the Liberal Democrat vote, which fell by 14 per cent, which converted it into a relatively safe Labour seat.

Table 3
Ynys Môn Election Results for 2001, 1999 and 1997

	2001 General Election		1999 Assembly Election		1997 General Election	
	Turn-out: 64.0%		Turn-out: 59.6%		Turn-out: 75.4%	
	votes	%	votes	%	votes	%
Labour	11,906	35.0	16,469	52.6	13,275	33.2
Plaid Cymru	11,106	32.6	7,181	22.9	15,756	39.5
Lib Dem	2,772	8.1	1,630	5.2	1,537	3.8
Conservative	7,653	22.5	6,031	19.3	8,569	21.5

Moreover, the Ynys Môn result (Table 3 above) bears examination. Although Labour performed well, a combination of other factors that enabled it to win the seat. These were the fall in turn-out, from which Plaid Cymru suffered disproportionately, combined with relatively strong performances from both the Conservatives and the Liberal Democrats. On the other hand Carmarthen East provided a pronounced swing of 8 per cent from Labour to Plaid Cymru, as Table 4 shows:

¹²³ 'We've got the message, says Morgan', *Western Mail*, 10 May 2001

¹²⁴ *Western Mail*, 9 June

Table 4
Carmarthen Election Results for 2001, 1999 and 1997

	2001 General Election Turn-out: 70.4%		1999 Assembly Election Turn-out: 60.9%		1997 General Election Turn-out: 78.6%	
	votes	%	votes	%	votes	%
Labour	13,540	35.6	10,348	31.7	17,907	42.9
Plaid Cymru	16,130	42.4	17,328	53.1	14,457	34.6
Lib Dem	2,815	7.4	2,202	6.7	3,150	7.5
Conservative	4,912	12.9	2,776	8.5	5,022	12.0

The loss of Ynys Môn, together with disappointed expectations of repeating the Assembly election success and winning seats in the Valleys – in particular Rhondda, Caerphilly and Llanelli - created a sense that Plaid Cymru had made no real headway. Yet its share of the vote went up by four points, to 14.3 per cent. Its previous best performance in a Westminster general election was in 1970 when it polled 11.5 per cent (175,016 votes on a 77.4 per cent turnout).

Perhaps more significantly, Plaid Cymru’s support is beginning to rise in eastern Wales above the derisory levels it has achieved in the past. Of course, the decisive break was made in the first Assembly elections. But the trend was confirmed in 2001. In the past, for example, the party has regularly lost deposits in Westminster elections in most of the eastern constituencies, fifteen in 1997 - from Alyn and Deeside and Wrexham in the north to the Cardiff seats and the Vale of Glamorgan in the south. In 2001, however, it lost deposits (polling below 5 per cent) in just five seats: Alyn and Deeside, Brecon and Radnor, Monmouth, Newport East, and Cardiff Central.

The Conservatives’ repeated failure to win a single seat in Wales, combined with the wider defeat across Britain, contributed to a view that they were withering on the vine as a serious force in Welsh politics. Yet the Conservative performance was far from disastrous. Its overall Welsh vote at 21 per cent, was within the 20 to 30 per cent range it has persistently achieved in Wales over more than a century. In its key target seats – Monmouth (where it came within 400 votes), Brecon and Radnor, Clwyd West, and Preseli – the party performed strongly. Of course, listing these seats also describes an old problem. Historically the party has done well on the peripheral (British) edge of Welsh politics and has been regarded by a majority of Welsh voters as a closet ‘English’ party. Paradoxically, however, this second large-scale defeat in terms of failing to win a Welsh seat is likely to assist those who are making the case for a stronger Welsh identity for the Conservative Party. Within days of the election Glyn Davies, AM for Mid and West Wales, was arguing:

“Our attitude towards the National Assembly is the key to convincing the Welsh people that we are totally committed to ‘sticking up for Wales’. Whether we like it or not, the National Assembly is here to stay and the Conservative Party’s commitment to it is the measure by which our commitment to Wales will be judged ... Our strategy for Wales may include a Welsh political leader and may involve more autonomy for the Welsh Conservative Party, but at the heart of any strategy must lie a 100 per cent commitment to an effective Assembly.”¹²⁵

The 2001 election also brought some encouragement for the Welsh Liberal Democrats. It made no substantial advance but did not retreat either. In rural Wales the party fought off a strong Conservative assault in Brecon and Radnor and performed well in Ceredigion. In Cardiff Central, its main target seat, it ran Labour to within a percentage point (659 votes), despite an HTV NOP constituency poll early in the campaign forecasting it would trail by 19 per cent. Before the election Liberal Democrats were worried that their participation in the Coalition with Labour in the National Assembly might damage their prospects. There was no sign that this was the case. Neither was there evidence that they were affected by the difficulties affecting their Assembly leader, Deputy First Minister Mike German, who during the campaign faced renewed allegations of fraud in his previous position as Head of the Welsh Joint Education Committee’s European Unit.

In terms of Welsh politics the decisive election takes place in May 2003. This will be the test of whether Labour’s Welsh hegemony, shaken in 1999 and now stirred in 2001, will crumble or be sustained. In 2003 the second landslide New Labour Government in Westminster will be in mid-term. Welsh Labour will be anxious for it to be seen to be improving the key public services – health, education and transport – if disillusionment is not to undermine its chances in the second Assembly election. The timescale does not augur well. While a week may be a long time in politics, even two years may not be enough to offset decades of under-investment in the public sector. This is a crunch issue for Wales and other Labour heartlands which are characterised by heavy reliance on public expenditure.

¹²⁵ Glyn Davies, ‘Time to play as a team for party’s sake’. *Western Mail*, 11 June.

10. PUBLIC ATTITUDES

Denis Balsom, Welsh Governance Centre, Cardiff University

Most commentators attributed the shock results of the first, 1999, Assembly election to the low turnout and a widespread recognition that it was a Welsh event, for which a Welsh response was entirely appropriate. As discussed in the previous Section, the 2001 General Election largely confirmed the electorate's ability to distinguish the new levels in British politics and revert to established Westminster voting patterns. At the same time an NOP poll¹²⁶ conducted for BBC Wales in the closing days of the General Election campaign raised the crucial question of whether electors would be voting for the same party if it had been an Assembly election. One in five of those polled stated they would vote differently for an Assembly election, as Table 5 shows:

Table 5

NOP Poll June 2001: Would you vote for a different party if a National Assembly for Wales election was being held on 7 June rather than the General Election?

	Recalled 1997 vote				
	ALL	Lab	Con	Lib Dem	Plaid
Yes, would vote for a different party	20%	19%	16%	22%	16%
No, would not vote for a different party	63%	67%	71%	52%	72%
Would not vote in an Assembly election	5%	3%	5%	7%	1%
Don't Know	13%	10%	8%	19%	10%

BBC conventions prevented the poll examining voting intentions for the 2001 General Election, but it did ask voters how they had previously voted in both 1997 and 1999. The results show that significant defections from past Westminster voting would have affected all parties, suggesting that the voters do perceive differences between the elections. When asked why they would vote differently, most related their change to the explicit Welsh nature of the Assembly contest (see Table 6). A Welsh election necessitates a Welsh response and the parties in Wales have quickly grasped the logic of this simple fact.

Table 6

¹²⁶ NOP interviewed a representative sample of 1500 Welsh electors, by telephone, between 31 May and 5 June 2001.

NOP Poll June 2001: If Yes to voting differently (Table 5), is there any particular reason why you would vote differently at an Assembly election?

	Recalled 1997 vote				
	ALL	Lab	Con	LDem	PIC
No, no particular reason	29%	27%	34%	22%	24%
It's a Welsh election, not British	18%	20%	11%	22%	18%
Best policies for Wales	17%	19%	16%	27%	16%
More concerned about Wales	16%	15%	14%	19%	16%
Best policies	4%	4%	3%	-	7%
Best leader	4%	2%	15%	7%	10%
To make the Assembly better balanced	3%	2%	-	5%	8%
Other parties not interested in Wales	3%	3%	4%	-	4%
Protest against the Government	4%	3%	5%	6%	-
Save wasting vote – make it count	8%	5%	11%	11%	12%
It's a local election	2%	3%	5%	-	-
Other	8%	11%	4%	-	13%
Don't Know	5%	8%	-	-	-

To date, Plaid Cymru have almost held a monopoly as being the 'Welsh' party, to the extent that to vote Plaid Cymru at a Westminster election could almost be portrayed as a wasted vote. At the Assembly elections however, an unambiguous Welsh provenance can only be an advantage. Already we see the Conservatives in Wales wishing to re-brand themselves as a Welsh Party, Labour hi-jacking Plaid Cymru's strap-line to project themselves as the 'real' party of Wales and the Liberal Democrats emphasising their devolved structure. As the National Assembly entrenches itself at the centre of Welsh politics, such trends can only grow stronger. Furthermore, by May 2003, the Blair Government may well be suffering from an acute attack of mid-term blues. Labour in Wales will need to fight its own campaign on its own programme.

Unlike the continued ambivalence in British politics towards Europe, and the prospect of a common currency in particular, no political parties are seeking to undo or reverse the devolution settlement. Whatever misgivings might have been aired concerning the narrow referendum result or the poor participation in the Assembly elections, no party is advocating a return to the status quo ante. Even when confronted by the limited achievements and modest performance of the National Assembly to date, nobody is suggesting its demise. Ironically, the Assembly's alleged weakness has become the strongest argument for further enhancement of its powers.

The BBC Wales election poll asked respondents which constitutional option for Wales came closest to their own view. From a choice ranging from independence, a Scottish-type law-making and tax varying Parliament, an Assembly as constituted or no Assembly at all, a clear plurality favoured a stronger institution, as Table 7 shows:

Table 7

NOP Poll June 2001: Thinking more generally about Welsh politics, which of these statements comes closest to your own view?

	Recalled 1997 vote (%)				
	ALL	Lab	Con	Lib Dem	Plaid
Wales should become independent	8	7	11	-	12
Wales should have its own elected Parliament like Scotland with law-Making and taxation powers	44	42	14	47	66
Wales should continue to have an Assembly with limited law-making Powers	24	29	31	13	14
Wales should have no elected Assembly or Parliament	18	17	43	32	7
Don't Know/No answer	5	5	-	7	1

When tracked against how electors voted at the last Assembly election in 1999, only Conservative supporters would appear to be reluctant to progress devolution further. A surprising number of Liberal Democrats appear to want to turn the clock back, but this is countered by just under half who would wish to see Wales with a more powerful elected Parliament. The key finding however, is the proportion of Labour supporters who would strengthen the Welsh constitutional position. Given the level of defection to Plaid Cymru at the last Assembly elections, the Labour Party will be under considerable pressure to adopt a pro-active programme to enhance devolution or risk further electoral losses. The BBC NOP poll's findings indicating a plurality wishing to extend the Assembly's powers was confirmed by a further poll in July, conducted by Market Research Wales for researchers at the Welsh Governance Centre in Cardiff University.¹²⁷ This asked the following, similar questions:

Table 8

Market Research Wales Poll, July 2001: Extending the Assembly's Powers

Wales should become independent	11%
Wales should remain part of the UK, with its own elected Parliament, which has law making and taxation powers	38%
Wales should remain part of the UK, with its own elected Assembly which has limited law making powers only	24%
Wales should remain part of the UK without an elected Assembly	24%
No opinion/don't know	8%

¹²⁷ Market Research Wales interviewed a representative sample of 1008 Welsh electors, by telephone, during early July 2001.

These results suggest that a significant shift in attitudes on the question of extending the Assembly’s powers took place during the second year of the Assembly. An NOP poll carried out for HTV in July 2000, though not asking identical questions did probe attitudes on broadly the same questions. For the purposes of this comparison the responses to questions relating to independence and law-making powers in the 2001 polls can be combined, giving 52 per cent and 49 per cent respectively. A year earlier the equivalent figure was 43 per cent, as Table 9 shows:

Table 9
NOP Poll July 2000: The National Assembly is one year old. Which of these alternative views comes closest to your own opinion?

The Assembly should have law making powers	43%
The Assembly should continue with its present range of powers and responsibilities	28%
The Assembly has failed and should be disbanded	23%
Don't Know	6%

These findings suggest that public opinion might be moving ahead of the politicians in their search for a more effective settlement.

11. PRESS AND MEDIA

Nia Richardson, IWA

(i) The Debate Over In-Migration

It is not often that events in Welsh political life reaches the pages and headlines of the British press and media. However, highly controversial comments made by John Elfed Jones, the ex-chairman of Welsh Water – discussed in the opening Section of this report - infiltrated the pages of the *Guardian*, was headline news on BBC Radio 4's *Today* programme, and even sparked an article on the Welsh language in the *Economist*.

Elfed Jones' remarks comparing the impact of in-migrants into rural Wales with foot-and-mouth disease was taken up not only because of the language used, but the status of who was saying them. As reported earlier John Elfed Jones has been a prominent figure in Wales for more than two decades, having among other positions chaired the Welsh Water Authority, been Director of HTV Wales and Chairman of the Advisory Group for the National Assembly of Wales in 1998

Welsh newspapers were universal in condemning his comments. The *Daily Post* made it its front-page story with a huge bold headline, 'You are the new foot and mouth' aimed towards its English speaking readers. Its editorial it went on to say,

“The likening by Mr. John Elfed Jones of in-migration as another foot and mouth disease is both intemperate and inflammatory as well as being deeply offensive, it is also ridiculous.”¹²⁸

The *Western Mail*, although a day behind the *Daily Post* in covering the story, was equally damning, describing Elfed Jones's comments as a 'bizarre attack' which was 'unhelpful and saddening.' The intervention was

“... misguided and plain unhelpful, as well as being an insult to the farming community which has been devastated by the outbreak. Mr Jones, uncharacteristically, has resorted to the language of the extremist in what appears to be a clumsy attempt to provoke a reaction. It has backfired. The problems he is trying to highlight have been swamped by his own hyperbole and bad judgement.”¹²⁹

Predictably, the *Welsh Mirror* went even further claiming the episode revealed a 'Welsh speaking élite secretive agenda',

¹²⁸ *Daily Post* 7 August 2001

¹²⁹ *Western Mail* 8 August 2001

“This was no slip-of-the tongue by some dodderly old man. It was an unpleasant, entirely tactical attack timed to do maximum damage.”¹³⁰

According to the *Mirror* Elfed Jones’ comments had,

“... revealed for us the truth about the silent, secretive agenda of the Welsh-speaking élite.”¹³¹

Others also took advantage of the media spotlight during Eisteddfod week to voice their opinion on the issue. The day following the publication of John Elfed Jones' article, one of Plaid Cymru’s ten Vice-Presidents representing Ceredigion, Gwilym ab Ioan was forced to resign after comments he had made on an Internet news site were reported in the media. He 'quit before he was pushed'¹³² after making comments comparing rural Wales with Montana in the United States,

“Montana is the dumping ground for oddballs, social misfits and society dropouts. Wales suffers from the same phenomenon.”¹³³

He continued to remark that if action was not taken soon Wales would be,

“... so full of foreigners in our own land our voice will be drowned out forever along with our language and culture.”¹³⁴

Earlier in the week Meirion Evans, Archdruid of the Gorsedd of Bards of the National Eisteddfod, entered the debate over the future of rural Welsh communities by demanding a Housing Act during the opening of the Gorsedd Circle:

“Some time ago, we were asked to believe that the struggle for the survival of the Welsh language was over, that the battle was already won. If we were foolish enough to believe these false prophets, we now find that we have to pay the price. This is a political problem and we look to the politicians to solve it. One urgent step they need take is to introduce a Housing or Property Act which would help local people compete on a more level playing field. Some would cling to the argument that our government in Cardiff does not have enough power to legislate. If that is the case then I say, demand it.”¹³⁵

By the end of the week, the *Daily Post* and the *Western Mail* were running similar editorial lines, demanding that the issue be discussed sensibly, in less inflammatory language, and that something constructive be done by the National Assembly to appease concerns. In a front page editorial the *Daily Post* demanded:

¹³⁰ *Welsh Mirror* 8 August 2001

¹³¹ *Ibid.*

¹³² *Western Mail* 8 August 2001

¹³³ *Western Mail* 10 August 2001

¹³⁴ *Ibid.*

¹³⁵ *Western Mail*, 7 August 2001

“For the sake of Wales, shut up and deliver.”

Continuing:

“We acknowledge we have problems in terms of house prices and the survival of the Welsh language, but our politicians are not going about it the right way. So today we say to them: shut up and get on with the job.”¹³⁶

On the same day the *Western Mail* declared:

“Almost daily in National Eisteddfod week, there is another language row, another senior figure causing a furore with ill-judged comments. The comments do us all a disservice, since Wales is increasingly gaining a reputation as a nation of extremists, which we are not. Those who seek to raise their personal profile among narrow constituencies of people by speaking in deliberately inflammatory terms are doing so at the expense of the perception of Welsh people as a whole. It is time for them to stop the self-indulgence and start participating in a constructive fashion.”¹³⁷

Writing at the end of Eisteddfod week, *Wales on Sunday* devoted a page to condemning the succession of views that had been aired during the week:

“We refuse to tolerate repugnant expression of anti-English sentiments of the kind we have heard over the past week. When the Assembly was launched two and a quarter years ago, we thought the frame of mind that led to cottage burning had been consigned to history. A modern, confident Wales can have no truck with anti-English or any other kind of racism.”¹³⁸

(ii) The Plaid Cymru Leadership Issue

On 5 July Plaid Cymru issued a Press Release dismissing a story that had been run in the *Western Mail* suggesting that Ieuan Wyn Jones would be replaced as leader by his predecessor Dafydd Wigley. In a front-page story in late June the *Western Mail* had claimed that a majority of Plaid’s AMs wanted Dafydd Wigley to replace Ieuan Wyn Jones as leader of the party. It reported that though Dafydd Wigley had resigned the leadership early during 2000 on the basis of ill health he had now recovered well. Clive Betts, the author of the story, claimed to have inside knowledge that:

“Nine of the 17 Plaid AMs are said to be in favour of returning the charismatic Mr. Wigley to the top job. Although Mr. Jones has performed well at the National

¹³⁶ *Daily Post*, 9 August 2001

¹³⁷ *Western Mail*, 9 August 2001

¹³⁸ *Wales on Sunday*, August 12

Assembly, critics say he lacks Mr. Wigley's presence and has been exposed during television appearances.”¹³⁹

The article speculated that Wigley could stand against Ieuan Wyn Jones when he is to be confirmed for a two-year presidency at the party's annual conference in September. The *Western Mail's* editorial claimed that Ieuan Wyn Jones had not proven himself to be a natural leader:

“Despite the benefit of a landslide win in the Plaid Cymru leadership contest, Mr Jones does not yet look the finished article as leader of his party, much less leader of a nation.”¹⁴⁰

Ieuan Wyn Jones himself rejected both the *Western Mail's* report and opinion:

“I am confident that mine is an agenda that will succeed. I am determined to see this through. I do not expect there will be a challenge.”¹⁴¹

Furthermore, Plaid Cymru circulated a press release following a Group meeting of Plaid Cymru AMs in July which stated clearly that:

“The Group today declared its total confidence and support for Ieuan Wyn Jones AM, Plaid Cymru - the Party of Wales' Leader. We reject entirely recent reports in the *Western Mail* concerning members of the group being involved in calls for a change in the leadership of Plaid Cymru.”¹⁴²

Despite this, the *Western Mail* continued to dedicate several of his columns to the story. Later in July he criticised Ieuan Wyn Jones's inability to deal with the rural Welsh language issue and asked:

“Will Dafydd Wigley become Leader once more of Plaid Cymru?”¹⁴³

However, during Eisteddfod week Wigley declared:

“I do not see any circumstance in which I would contest an election for either post against Ieuan Wyn Jones.”¹⁴⁴

This did not discourage Betts who continued to pour doubts on Ieuan Wyn Jones's future by encouraging the reader to look at Dafydd Wigley's statement carefully:

“Examine this phrase in detail, and it possesses a twist in its tail. Mr Wigley can't currently see any circumstances - but what about in the future?”¹⁴⁵

¹³⁹ *Western Mail*, 29 June 2001

¹⁴⁰ *Western Mail*, 29 June 2001

¹⁴¹ *Western Mail*, 30 June 2001

¹⁴² Plaid Cymru Press Release, July 5

¹⁴³ *Western Mail* 27 July

¹⁴⁴ *Western Mail* 10 August

In the same article Betts did concede that the AM who had told the *Western Mail* that nine of the 17 Assembly Group favoured replacing Jones with Wigley had been “exaggerating”.

¹⁴⁵ *Ibid.*