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# Nations and Regions: The Dynamics of Devolution

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# THE ECONOMY TAKES CENTRE STAGE

MONITORING



**Cynulliad Cenedlaethol Cymru**  
**The National Assembly for Wales**

**DECEMBER 2000 TO MARCH 2001**

**Edited By**  
**John Osmond**

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## **SUMMARY**

The National Assembly's Administration faced its first major policy crisis in early 2001 when mounting redundancies in the Welsh manufacturing sector were led by the Corus steel announcement of the loss of more than 2,500 jobs. A sense of beleaguerment was compounded by the onset of foot and mouth disease towards the end of February. Efforts to come up with a package of £20 million to persuade Corus to stave off its closure programme was doomed to failure set against the £226 million loss the company made in the first half of the current financial year. A leaked Memo from the Assembly's Director of Economic Affairs, Derek Jones, suggested there would be no additional support from the Treasury: the Assembly would only receive money to deal with the job losses if it agreed to give up other grants that it is currently entitled to, such as meeting the cost of repairs after recent flood damage.

Led by the Labour AM Ron Davies, the Economic Development Committee refused to endorse the Administration's Economic Development Strategy. The policy was criticised for being unfocused and lacking realistic targets. Another important policy document, the new Welsh Health Strategy, advocating abolition of the five Welsh health Authorities by April 2003, also ran into trouble. In the first instance it was counter to the Coalition Partnership Agreement which committed the Administration to seeking "a period of organisational stability within the health services in Wales." A Conservative initiative to defer a decision to endorse the Plan pending a further debate found support in plenary in early February.

The Assembly's Operational Review got underway in early January. Whilst it is intended to get to grip with practical questions such as the running of the Committees and the Assembly's relationship with outside organisations, attention quickly focused on the more fundamental question of the Assembly's ability to influence primary legislation at Westminster. A resolution seeking to stiffen Assembly's role in influencing Westminster's Legislative programme was approved overwhelmingly by 49 votes at the end of a debate on the Queen's Speech at the end of December. On the question of the Assembly acquiring wider powers, First Minister Rhodri Morgan drew attention to the next EU inter-governmental conference in 2004. In an exchange in Plenary session in December he said, "Its timing could not be better, considering that the Partnership Agreement document plans a review of the Assembly's powers, which will report back to the Assembly after the next Assembly elections in May 2003. This will be just in time for the 2004 inter-governmental conference on the respective roles of the Regional, Nation State and European tiers of government."

The Queen's speech included the first Wales-only bill since devolution, extending the powers of the Children's Commissioner beyond those conferred to it by the Care Standards Act. This demonstrated that the Assembly fares best in its relations with Whitehall and Westminster when it has a coherent, homegrown and cross-party policy.

Plaid Cymru launched an internal consultation on its constitutional aims in December. This attempted to address the conundrum that while the party aspires to "full national status" for Wales within the EU on a par with Denmark or Ireland, it has an ideological

aversion to the term ‘independence’. However, such rarefied questions were rapidly overtaken in the New Year when the party became engulfed in controversy over English people moving into Wales. A Plaid Gwynedd councillor, Simon Glyn, claimed they were a mortal threat to Welsh speaking communities. In turn Labour accused the Plaid of being racist. On BBC’s *Question Time* Plaid’s leader Ieuan Wyn Jones came off worse for wear in a clash on the issue with Labour MEP Glenys Kinnock. A General Election was plainly in the offing. An HTV poll at the end of February reported little change in the standing of the parties. However, it did indicate that turnout may be low, with unpredictable consequences for key marginals across Wales.

## **1. THE ADMINISTRATION**

**By John Osmond and Nia Richardson, IWA**

### **The Economy Takes Centre Stage**

The Administration in the National Assembly faced its first major policy crisis in early 2001 when mounting redundancies in the Welsh manufacturing sector were led by the Corus steel announcement of the loss of more than 2,500 jobs in Wales, involving:

- The complete closure of the Ebbw Vale works by mid 2002: 780 lost jobs.
- The closure of the ‘heavy end’ of iron and steel making at Llanwern near Newport by September 2001: 1,340 lost jobs.
- The closure of the pickle line, cold mill and one electro-zinc line at Shotton in north-east Wales during 2001: 319 lost jobs.
- The complete closure of the alumised products factory at Bryngwyn, Gorseinon, during 2001: 130 lost jobs.

The blow to Ebbw Vale was perhaps the cruellest since the workforce is heavily concentrated in the town which already has the highest rate of unemployment in Wales. Moreover, the average age of the workforce is 41 compared with mid-50s at Llanwern where the workers come from a much wider catchment area. Feelings were summed up by a Western Mail front-page headline the day following the announcement, quoting Blaenau Gwent’s AM Peter Law:

“At the stroke of a pen my community has been plunged into bottomless poverty ... an era of soup kitchens and handouts.”<sup>1</sup>

First Minister Rhodri Morgan joined the ranks of UK Ministers in condemning Corus, not just for failing to consult the government in either Westminster or Cardiff, let alone the workforce, but also for failing to plan ahead. Pointing out that the Dutch-based group Corus had paid out £700 million to shareholders a year earlier, following its merger with British Steel, he said:

“Corus squandered shareholders funds in such a way that they were unable to cope with the cyclical nature of the steel industry when the currency factors and market factors went against them during what has undoubtedly been a difficult year. But if you don’t understand that the steel industry is a highly cyclical industry and that you need to keep your shareholders’ funds available to cover the rainy day which comes along once every four or five years in steel, you don’t understand the steel industry and you shouldn’t be in the steel industry.”<sup>2</sup>

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<sup>1</sup> Western Mail, 2 February 2000

<sup>2</sup> *Ibid.*

Such hindsight provided little comfort, however. It also ignored a number of realities that had steadily become clearer to the industry's analysts in the months leading to the closure announcement. These included:

- (i) There is a global glut of steel production.
- (ii) Commodity steel prices are at a twenty year low.
- (iii) Corus exports more than half of its British production to Europe and owns substantial German and Dutch steel operations.
- (iv) The exchange rate carried the pound to an overvaluation of some 40 per cent in real terms against the euro, making those same exports desperately unprofitable.
- (v) Domestic demand for steel has stagnated as British manufacturing output has stagnated.
- (vi) Like every British quoted company, Corus is exposed to take-over because of the way the stock market is organised and ownership responsibilities discharged.<sup>3</sup>

Set against such realities the Assembly Administration's efforts to come up with a £20 million package to persuade Corus to stave off its closure programme was doomed to failure. In the first half of the current financial year the company lost £226 million. Indeed, the episode demonstrated the helplessness of governments at any level to counter such tectonic shifts in the global marketplace. All governments can do is anticipate adverse change and put in place measures to soften their impact and steer the wider economy towards better conditions. Meanwhile, the Assembly Administration's handwringing at its impotence in the face of the Corus announcement came in for a good deal of criticism. Calvin Jones, of the Welsh Economy Research Unit at Cardiff Business School, accused it of being disingenuous:

“Corus has been drip-feeding information for months. They knew there were going to be redundancies and that's enough to start thinking about contingency plans. The problem is that there are a lot of well-established schemes, such as Objective One and Two-related schemes, and that stretches the capacity of the institutions. The Assembly's got its hands full in terms of economic development and Objective One. There's very little time left for it to think about things that haven't happened yet, very little time for strategic thinking on individual issues.”<sup>4</sup>

The Head of Research in Business and Management at the University of Wales College, Newport, Kath Ringwald, also said the job losses should have been anticipated:

“I think it might be reasonable for us to expect the Assembly to anticipate job losses in the steel industry irrespective of where the axe was going to fall. What we need from the Assembly now is leadership and vision and direct resources specifically for these problems. We need a strategy for the regeneration of specific areas.”<sup>5</sup>

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<sup>3</sup> See Will Hutton, *The lies behind Labour's Corus line*, Observer, 4 February 2001, for a devastating analysis of this position.

<sup>4</sup> Western Mail, 5 February, 2001

<sup>5</sup> *Ibid.*



In light of this last comment it was significant that at the end of January the Economic Development Committee in the Assembly refused by a majority vote to endorse the Administration's Economic Development Strategy. An assault on the document was led by Ron Davies, the Caerphilly Labour AM who, on the eve of the Committee meeting, issued to fellow members a 2000-word briefing paper attacking virtually every aspect. The Committee minutes summarised Members reservations in the following terms:

- Targets set out in the Strategy were unrealistic and projected growth levels unlikely to be achievable
- The strategy needed to set out plans, policies and resources in terms that could meet the targets and should address the question of whether these required a change in the Assembly's priorities for its expenditure or new money from the UK Government.
- In general the document was too vague and ambitious.<sup>6</sup>

The Administration's position was that the Economic Development Strategy was only a draft – though more than a year had been spent in putting it together – and it was being issued as part of a consultation exercise. There was time to make changes before final approval in May. However, a motion expressing reservations, proposed by Ron Davies and supported by Alun Cairns, the Conservative Economic spokesman, was carried, with other Labour and Liberal Democrat members abstaining. A key amendment to the motion, referring to the strategy “as work in progress” fell by six votes to five.<sup>7</sup> Undoubtedly, this was a key vote and a further defining moment in the early life of the National Assembly. A document that bore all the hallmarks of the previous Welsh Office administration -- lacking in research and rigour, unfocused, and undemanding on Whitehall – failed to find democratic endorsement, despite it being sponsored by the new majority Labour/ Liberal Democrat coalition Administration.

A few weeks later the issue came to plenary session in a Minority Party debate called by the Conservatives. Here the coalition were able to wield their majority and voted down the Conservative motion which reiterated the reservations expressed by the Economic Development Committee. On this occasion Ron Davies voted with his own side, because he did not wish to support “any proposition suggesting that the Conservatives ... have anything to offer to solve the problems.” Yet this did not prevent him launching another sustained attack on the Economic Development Strategy. In it he called for a revision of the Barnett Formula, the basis for the distribution of resources from Whitehall to Wales, Scotland and Northern Ireland:

“There is little point in talking, as the National Economic Development Strategy does, about a vision for 10 or 15 year hence when there are serious and immediate issues that need to be addressed now. That action requires substantial sums of money. The solution will not be found by abandoning the Wales Millennium Centre

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<sup>6</sup> Committee Minutes, 31 January 2001

<sup>7</sup> Those voting for this amendment were Labour members Val Feld, Christine Chapman, Christine Gwyther, and Alison Halford, together with the Liberal Democrat Economic Development Minister Mike German. Those against were Ron Davies (Labour), Conservatives Alun Cairns and Glyn Davies, and Plaid Cymru Members Phil Williams, Dafydd Wigley, and Brian Hancock.

in Cardiff and redirecting resources to Ebbw Vale. The issue that we face is not about redistributing slices of the cake but increasing the size of the cake. Whatever the merits of the Barnett Formula over the past years, there is now one inescapable fact: the existing block formula system is disadvantaging Wales. The Barnett block, being historically determined, does not reflect the social and economic difficulties that Wales has experienced over the past 20 years, and is leading to convergence of levels of public expenditure vis-à-vis England, rather than divergence, as our economic and social needs demand. This is not whinging; it is a matter of the basic socialist principles of equity, redistribution and social justice. The present system of financing Welsh public expenditure should be scrapped, and replaced with a needs-based system. That is the single most important issue facing the National Assembly and, until it is resolved, we have no realistic prospects of successfully tackling our economic defect or our social problems.”<sup>8</sup>

Meanwhile the economic problems in the Welsh manufacturing sector continued to mount. The Corus steel lay-offs were only the largest among a raft of redundancies that were announced during the first two months of 2001, as Table 1 overpage indicates:

**Table 1**  
**Welsh Redundancy Announcements, January – February 2001**

<b>Business</b>	<b>Location</b>	<b>Job Losses</b>
Dairy Crest	Johnstown, Carmarthen	270
	Marshfield, Cardiff	275
Valeo	Gorseinon	330
Corus	Gorseinon	130
	Shotton	319
	Llanwern	1340
	Ebbw Vale	780
Dewhurst	Lampeter	165
Gossard	Pontllanfraith	162
General Electric	Nantgarw	88
Christie Tyler	Bridgend	304

<sup>8</sup> *Assembly Record*, 13 February 2001

KTH die casting	Llanidloes	203
AB Connectors	Abercynon	35
UVG Wales	Bedwas	40
Takiron UK	Bedwas	70
Friction Dynamics	Caernarfon	36
Ministry of Defence	Vale of Glamorgan	165
Creative Upholstery	Bridgend	293
Outline Designs	Bridgend	54
Arkana	Caerphilly	79
Oxford Diecast	Neath	30
<b>TOTAL</b>		<b>5,168</b>
Proposed: Dewhurst	Fishguard	230

Source: Western Mail, 21 February 2001

The news during the period was not entirely bad. In particular there was a major £240 million investment announced by Ford at its Bridgend engine plant, creating 640 jobs. In early March, visiting Swansea to speaking to the Welsh Labour Party's Spring Conference, Tony Blair announced a 500-jobs boost for Cardiff with confirmation that the furniture retailer Ikea was to open a store in the city.<sup>9</sup> However, the new jobs were in relatively prosperous areas, and generally speaking the main trend was the other way. Confronted with the statistics First Minister Rhodri Morgan said there was nothing he could do to stop the trend because the Treasury oversaw macro-economic policy. He added that news of the healthy state of the UK economy overall came as "no comfort whatever":

"There are two concerns facing the manufacturing industry now, firstly the election and secondly, what happens after that election with the single currency. All these people who work in the export market, manufacturing, steel and the automotive components want to do everything they can to be inside the euro, but at a reasonable and sustainable exchange rate. We are stuck at the moment around the 64/65p to the euro mark. It needs to go up about ten per cent."<sup>10</sup>

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<sup>9</sup> Western Mail, 3 March 2001

<sup>10</sup> Western Mail,

## **Foot and Mouth**

The Administration's economic problems were compounded towards the end of February by the outbreak of foot and mouth disease across Britain. By early March the outbreak had reached Anglesey and the Welsh borders in Powys, with some suspected cases in Monmouth and Newport. However, the whole of rural Wales was affected by the restrictions on movement of animals, together with the closure of the National Parks and countryside footpaths. First Minister Rhodri Morgan responded to a request from the Irish Minister for Agriculture and Food and announced a postponement of the Six Nations Wales v Ireland rugby international at Cardiff on 3 March. In an effort to ease farmers' cash flow problems Rural Affairs Minister Carwyn Jones brought forward the release of Tir Mynydd agri-environment scheme payments totalling £22 million.<sup>11</sup>

## **The New Welsh Health Strategy**

Abolition of the five Welsh Health Authorities by April 2003 is the centrepiece of Wales' first National Plan for Health, announced by Health Minister Jane Hutt at the beginning of February. She said the proposals *Improving Health in Wales :A Plan for the NHS with its partners* were.

“... designed to meet Welsh needs, breaking down the barrier between institutions and organisations to provide integrated services that are simpler for people to use and understand.”<sup>12</sup>

It was noteworthy that the proposal ran counter to the Partnership Agreement made between Labour and the Liberal Democrats to create the majority Coalition Administration in October 2000. Under Section 3 of the Agreement, on Health and Social Care, is the following commitment:

“We will seek a period of organisational stability within the health services in Wales to allow staff to prioritise the delivery of better health care.”<sup>13</sup>

Health Minister Jane Hutt consulted with the Liberal Democrat Brecon and Radnor AM Kirsty Williams, who chairs the Health and Social Services Committee, before committing to the abolition of the Health Authorities. There was some discussion amongst the Liberal Democrat leadership before assent to the change was forthcoming. There was some opposition, the argument being that to give way on one aspect of the agreement would weaken Labour's support for other aspects, for instance proportional representation for local government elections.

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<sup>11</sup> Assembly Press Release, 5 March

<sup>12</sup> Government of Wales Press Release, 2 February, 2001

<sup>13</sup> *Putting Wales First: A Partnership for the People of Wales*, 6 October 2000. This commitment is the eleventh of 15 Initiatives splunked out in the Health and Social Services Section

The proposals also ran into immediate trouble in the Assembly. Enough support was found in plenary session on 13 February for a Conservative initiative to defer a decision to endorse the Plan to a further debate. The move for a further debate of the document came from David Melding, the Conservative Health Spokesman. He said the Plan's proposals to abolish the Health Authorities was a recipe for massive centralisation of the health service within the office of the Health Minister Jane Hutt.<sup>14</sup>

Presiding Officer Lord Elis-Thomas ruled that he needed nine supporters to halt the vote to endorse the Plan that was due within minutes. Even then there should have been no problem since Plaid Cymru, the largest Opposition party supports the Labour/Liberal Coalition proposals to abolish the Health Authorities. However, there was a Labour backbench revolt. At first only the Conservative Members voted in support of the delay, but then they were joined by two backbenchers, Lynne Neagle (Torfaen) and Ann Jones (Vale of Clwyd), the current and immediate past chairs of the Labour Group in the Assembly. They ensured the required nine votes were achieved.

When the changes are next debated they are sure to be endorsed, given the new Coalition majority in the Assembly. However, there is now a chance they may be amended. Abolition of the five Health Authorities is part of Jane Hutt's vision to create a primary care led service in Wales with a much stronger role for Local Health Groups. They will take on new responsibilities for commissioning and delivering health care in their localities. As a result their membership will be extended to include representation from local authority members.

At the same time there will be a new assertion of the National Assembly's direct democratic control of its health responsibilities providing more focused leadership, direction and oversight. The Assembly will be supported by a Health and Well-being Partnership Council chaired by the Minister for Health and Social Services. As the Plan stipulates, the intention is that

“... new, clear and strong lines of accountability will flow from the centre direct to NHS Trusts and Local Health Groups.”<sup>15</sup>

According to the Administration, these changes remove the necessity for five Health Authorities whilst the role of the 15 Trusts will more or less remain the same. Whilst the vision and reasoning behind the changes to the health service's structure is incorporated into the document, details of how these will be implemented are not. Both the future and development role of the Local Health Groups and proposals for the future management of remaining Health Authority duties are to be the subject of a consultation paper in June 2001. However, the announcement of such a radical change without any details on what exactly will replace the Health Authorities will inevitably create an atmosphere of uncertainty in the health service during the coming months.

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<sup>14</sup> Western Mail, 14 February 2001

<sup>15</sup> *Improving Health in Wales, A Plan for the NHS with its Partners*, January 2001, page 75.

David Melding AM, the Conservative's Shadow Health Minister, picked up on this during the Health and Social Services Committee's discussion of the Plan following its launch. He questioned whether primary legislation would be needed for the abolishment of Health Authorities. He was also concerned over the status of the Local Health Groups. Initially these were designed to give the Health Authorities advice on the services needed by local people. As such they are not themselves statutory bodies. David Melding suggested that they would have to become Trusts, a suggestion that Jane Hutt flatly refused. Nevertheless she would not elaborate on the future status of Local Health Groups claiming that it would be inappropriate for her to do so before the consultation into the matter.<sup>16</sup>

Whilst devolving more responsibilities to the Local Health Groups will undoubtedly bring service planning closer to the people, there are concerns that they are too small and inexperienced to deal with their new competencies and to become strong buyers. They do not currently have direct financial responsibility and public accountability for monies allocated to the Trusts by the Health Authorities. As a result there will be a tendency for control over the Trusts to be centralised at the the all-Wales level. Philipa Ford, Welsh Policy Officer with the Chartered Society of Physiotherapy, said:

“Health Authorities do a critical job in reviewing local healthcare and planning of the future of their area of responsibility. My concern would be that Local health Groups are very young...”<sup>17</sup>

Local Health Group's membership will also be extended to include lay people and local authority members who may not have the knowledge and expertise needed to cope with their new responsibilities. At the other end of the scale there are concerns that increasing the involvement of the Assembly in the direction of the NHS will make it a much more centralised service subject to politicised decisions. As David Melding put it,

“The Minister has announced an uncompromising move towards the centralisation of the NHS. She favours a 'command and control' approach to health issues rather than trusting clinicians. This move will lead to more political interference from the Minister and less freedom for frontline staff. Jane Hutt is now the State Commissar for Health.”<sup>18</sup>

Despite such reservations the radical move to remove the Health Authorities was generally supported. Plaid Cymru welcomed the abolition of what it described as an unnecessary tier of administration since it has long been part of Plaid Cymru policy. The British Medical Association in Wales also welcomed the document. Its Chairman of the General Practitioners Committee (Wales) Dr. Tony Calland said,

”The Health Minister has made some far sighted and brave decisions in this Plan. The reinforcement of Local Health Groups and further development of primary care

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<sup>16</sup> Meeting of the Health and Social Services Committee, 7 February 2001.

<sup>17</sup> Western Mail, 2 February 2001

<sup>18</sup> Conservative Party Press Release, 1 February 2001

are to be welcomed and will, at last, allow primary care to deliver high quality and extended services to patients.”<sup>19</sup>

The Royal College of Nursing also supported the elimination of Health Authorities, with a spokesperson stating that

“The Royal College of Nursing welcomes the proposal to reduce more bureaucracy in the NHS by phasing out health authorities”.<sup>20</sup>

The removal of Health Authorities will move the Welsh NHS System away from the structure of the English NHS and is perhaps one of the clearest examples of 'devolution in action' since the inception of the Assembly. A Western Mail editorial described it as,

“... radical and definitely a departure from the old Welsh Office dogmas which the Assembly has struggled to shake off ... If it presses ahead with wholesale changes the Rhodri Morgan administration will have shown that it does indeed have teeth.”

<sup>21</sup>

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<sup>19</sup> BMA Press Release, 2 February 2001

<sup>20</sup> Western Mail 2 February 2001

<sup>21</sup> Western Mail 1 February 2001

## 2. THE BUDGET

By Adrian Kay and Nigel Blewitt, University of Glamorgan

*A witty statesman said, you might prove anything by figures.*

Thomas Carlyle

The Assembly's budget process for the financial years 2001-02 to 2004-04 showed that the statecraft noted by Carlyle is still practised by contemporary Welsh politicians. In contrast to pre-devolution budget rounds, the allocation of the Welsh block for the next three years produced an exchange of a battery of statistics between the main political parties. Indeed, Delyth Evans, a Deputy Minister in the coalition government of Wales, told the Assembly:

“As someone who worked as a researcher for the Labour Party in opposition, I know how easy it is to juggle figures and back up a point of view that one wants to put forward.”<sup>22</sup>

However, no one exhibited complete mastery of these political arts to show that public expenditure was being cut in any major policy area. The backdrop to the Welsh budget debate was a large increase in public expenditure in England over three years providing a large increase in the block available to the Assembly to allocate. An indication of the degree of largesse available to the Finance Minister, Edwina Hart, was her claim that she had met 54 of the 55 priorities given to her by the Subject Committees of the Assembly during the budget consultation process. It is a moot point whether the word ‘priority’ can be stretched to cover 55 areas of government activity, but the assertion stands that this was a budget settlement in which all the major policy areas received significant increases in funding. Without public expenditure cuts or miserly increases to bemoan, the party political debate gravitated toward three questions:

- (i) By how much was expenditure rising?
- (ii) Was it going up as quickly as in England?
- (iii) Did the allocation represent a shift in resources from various parts of the Assembly's budget to provide matched funding for the expected Objective 1 grant applications?

Before considering these questions, it is worth posing a further question that did not form part of the party political debate on the budget: what lessons, if any, are available from the allocating the budget for the devolution process as a whole in Wales? The devolution financing arrangements give the Assembly discretion in the spending of the Welsh block. However, the Assembly budget agreed for the next three years allocates the block in line with the priorities of the UK government. For example, large increases in health and education expenditure in England have generated large increases in health and education expenditure in Wales. It is difficult to see from the figures that the pattern of funding allocation is any different than it would have been under the Welsh Office in the sense of

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<sup>22</sup> Assembly Record, 7 December 2000



reflecting the central government's priorities. This is hardly surprising since the big increases in expenditure by the UK government that produced the big increases in expenditure in Wales represent Labour Party priorities. Labour holds a majority of Welsh seats both at Westminster and in the Assembly.

One of the clearest observations of the budget process is the increasing transparency and openness, along with the value of the Assembly's scrutiny function. In particular, there were signs of an effective opposition in the Assembly. The issues of European match funding and the effect of the local government settlement on council tax rates were prominent at all stages of the budget process. This was the first budget of the partnership government in the Assembly. There were a few areas where spending was explicitly linked to the partnership agreement but the main effect seems to have been to sharpen the public scrutiny of the budget. Relieved of the requirement to manufacture a cross-party consensus to pass the budget, the parties of the Assembly slipped easily into the roles of Government and Opposition.

The question for future consideration is whether the real constraints on the ability of Assembly to allocate monies in a manner different from the expenditure pattern in England is party political rather than the operation of the Barnett formula or the devolution settlement. Perhaps only when there is a difference in the party control between Wales and Westminster will that question be answered.

### **By How much has Spending Increased?**

A brief examination of the government's press notice of July 2000 after the Comprehensive Spending review (CSR) announcement shows that the Welsh block would be worth £8.4 billion for 2001-02. However, by the time of the draft budget press notice in October the block was up to £9.7 billion. Although the government never claimed that this was 'new' money, it did not explain the discrepancy in the figures. It was only after a proposed amendment by Plaid Cymru that the government presented the budget to show that the increase was a function of the shift from cash flow accounting to resource accounting and did not represent a 15 per cent increase in the block agreed at in the CSR. The figures presented in Table 2, in old-style cash terms, take account of this change and are comparable.

**Table 2**  
**Key Major Expenditure Groups (£m)<sup>1</sup>**

	2000-01	2001-02	annual % change	2002-03	annual % change	2003-04	annual % change
Health and Social Services	2986.5	3248.8	8.8	3559.6	9.6	3840.8	7.9
Education and Lifelong learning	877.4	932.4	6.3	975.5	4.6	1032.0	5.8

Economic Development	263.2	409.6	55.6	449.2	9.7	485.8	8.1
Agriculture and Rural Development	231.1	258.4	11.8	247.2	-4.3	247.6	0.2
Environment, Planning and Transport	275.8	294.3	6.7	350.6	19.1	379.5	8.2
Housing	530.4	563.0	6.1	585.7	4.0	594.2	1.5
Culture, Sport and the Welsh Language	55.5	56.5	1.8	59.9	6.0	62.9	5.0
Local Government	2712.0	2852.4	5.2	3022.7	6.0	3194.9	5.7

Source: National Assembly for Wales Budget 2000: Final Budget for 2001-02 to 2003-04.

1. Figures for 2002-03 and 2003-04 are indicative.

The figure that clearly stands out is the 55.6 per cent increase in the economic development budget for the year 2001-02. The bulk of this increase is due to the higher level of funding made available through the European Regional Development Fund and the European Social Fund. The Welsh Development Agency and the Wales Tourist Board see their budgets increase by £9.9m and £4.6m, respectively, in 2001-02.

### Playing the Percentages

The Opposition parties in the Assembly pursued a line of criticism of the budget settlement based on the fact that the percentage increases in spending on health and education in England are greater than in Wales. This is a tendentious way of presenting the numbers and, in fact, is a criticism of the Barnett formula rather than the budget allocation process.

The Barnett formula was designed to produce lower percentage increases in spending in Wales compared to England. Consider the example of spending on health. Health spending per capita is higher in Wales than England. In 1998-99, health spending was £822 per head in Wales compared to £740 in England<sup>23</sup>. For every billion extra of spending on health in England, Wales receives around £60m through the Barnett formula. In other words, for every £20 per head increase in spending in England, Wales receives £20 per head. The absolute increase in spending per capita is exactly the same in both countries. However, when an equal £20 per head increase is expressed in percentage terms, the increase is greater in England than Wales because of its lower base line; in this example, a 2.7 per cent increase in England compared to 2.4 per cent in Wales.

To argue that the Barnett formula does not take account of the needs of Wales is perfectly valid - it does not. However, during the budget process the Opposition parties often used the smaller percentage increases in health and education spending in Wales to accuse the government of Wales of being stingy or losing out in negotiations with Whitehall. Such politicking clouded the question of whether the Barnett formula is the appropriate way to fund the Assembly.

<sup>23</sup> Regional Trends, 2000

## **European Funding Matters**

The budget area with the most political heat was European funding. In particular, the accusation by Plaid Cymru that resources were being drawn from health, education and other front line budgets to provide the necessary match funding to access Objective 1 funds. The facts that are not in dispute are that in the Comprehensive Spending Review Wales was allocated £421m over and above what the strict application of the Barnett formula would have implied in order to cover the EU element of Objective-1 expenditure. Further, £207m has been set aside in the economic development budget for matched funding.

There were two main points of contention. The first was of presentation and the second concerned the definition of the counterfactual. On the former point, the Government of Wales claimed that overall public expenditure in Wales increased by 8.1 per cent compared to 8 per cent in England from 2000-01 to 2001-02. This is true. Plaid Cymru claimed that the Welsh block, defined as that element of public expenditure provided by the Barnett formula, has increased by only 7.3 per cent compared to an 8 per cent increase in public expenditure in England. This is also true. The question of presentation is whether to include money provided by the EU for Objective 1 in Wales (and the match funding) as increases in public expenditure. The government does; Plaid Cymru does not.

The second point of contention concerns whether there is any evidence of Objective 1 match funding requirements drawing resources away from elsewhere in the system. The Plaid Cymru argument says that the £207m match funding has to come from somewhere else in the budget and without the financial burden of match funding Objective 1 grants, it could have been spent on such matters as health and education. The alternative argument runs that it is impossible to know where the £207m would have been spent if there had not been a need for match funding. It could have been spent on exactly the sort of programmes that it will be used for under the Objective 1 programme.<sup>24</sup>

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<sup>24</sup> For a flavour of the arguments currently underway between the Administration and Plaid Cymru on these issues see their exchanges in *Agenda*, Winter 2000-01, IWA, pages 13-15.

### **3. POLICY DEVELOPMENTS**

**By Nia Richardson, IWA**

The Annual Government Business Programme, the Cabinet's annual legislative and plenary programme for the National Assembly, dubbed as the Assembly's equivalent to the Queen's speech was revealed on the 21 of November<sup>25</sup>. The Programme, which should be implemented by July 2001, contained no great surprises, drawing heavily on commitments made in the Partnership Agreement.

#### **Economic Development**

The Assembly's National Economic Development Strategy document which is supposed to give direction to economic development in Wales for the next 10-15 years has now been distributed for consultation. Its vision is of a

'Prosperous Welsh economy that is dynamic, inclusive and sustainable, based on world-class competitive businesses and skilled, motivated people.'<sup>26</sup>

To achieve this aspiration the Strategy highlights four policy priority areas:

- Closing the regional productivity gap, focusing on sector specificity and clusters.
- Education, training and skills, entrepreneurship and internationalisation.
- Tackling the activity gap, tackling unemployment, inactivity and community regeneration.
- Ensuring territorial development across Wales that is balanced and sustainable and delivering better government.

For each of these policy priorities the document sets specific targets, for example a target of 150,000 net additional jobs by 2010<sup>27</sup>. To meet this and other challenges, key drivers of the Strategy will be:

- A new Strategic Clusters Programme
- A Business Birth Rate strategy
- An Enhanced Export Strategy
- Re-skilling, entrepreneurship education, and developments in the schools curriculum

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<sup>25</sup> The programme is carried in full as an Appendix to the previous Monitoring Report, *Coalition Politics Come to Wales*, IWA, December 2000.

<sup>26</sup> Assembly press release Feb 12, 2001

<sup>27</sup> NEDS, Executive Summary

- Higher and Further Education innovation linked to business development and increased research and development
- Community Development Programme
- Refocused Inward Investment Programme
- Strengthened Public/Private partnerships.

As reported in the opening Section, the document failed to receive a seal of approval from the Economic Committee prior to consultation. Nevertheless, a consultation will now be held on this strategy until May.

Another important economic policy document launched in January was the Economic Development Committee's *Review of Business Support and Development Services*. This is the first such study produced by the Committee. Its purpose was to review how Welsh businesses were being helped to grow and develop.

Val Feld (Labour), Chair of the Economic Development Committee said that, though it had been impressed by the quality of services available for business support, provision was patchy across Wales.<sup>28</sup> The Committee also found that although overall there was about £150m of public money going into business development programmes, there was little tracking of what worked and what did not and a worrying amount of duplication. As a result the report makes a number of key recommendations:

- The establishment of an Economic Policy Board, to work within the framework of the National Economic Development Strategy, and to oversee the implementation of the Strategy. An Economic Research monitoring and Evaluation unit would underpin the work of the Policy Board. This would evaluate business support schemes, research market trends and new opportunities. The Board would then make recommendations on the setting of priorities for the Economic Development Minister and the Committee.
- There should be a clear definition of the roles and responsibility of the National Assembly and the main agencies providing support to business in Wales. This should include both the public and the private sector.
- The Welsh Development Agency should be given the responsibility for developing an effective gateway to all business services. This will build on the current Business Connect model and ensure that high quality support is available in all parts of Wales and to all sizes and types of business. The possibility of re-branding is to be considered further by the WDA.

### ***The Structural funds***

Approval of projects under Objective one are still occurring with the first package of Objective one grants to North Wales worth £1m being approved in January. Most of this

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<sup>28</sup> Assembly Press Release 31 January 2001

package will go towards establishing Lifelong Learning centres in Caernarfon and Blaenau Ffestiniog.

Other successful projects include a £6,300,00 grant to the Wales Tourist Board to deliver a co-ordinated support programme to tourism business, particularly small to medium sized enterprises and £2,062,702 to the Wales Co-operative Centre to implement the all-Wales Credit Union Strategy within the Objective one area.

A Task and Finish Group, appointed by the Economic Development Minister to find ways of improving the management of Objective one money brought its recommendations to the Monitoring Committee for Objective one in December.<sup>29</sup> The Group identified early weaknesses in the development of the programme. They included a gap in leadership, a policy and strategy vacuum and a lack of focus of ownership of the programme. Their main recommendations were:

- To include a rolling programme of funding applications.
- A set period of 90 days from funding application to decision.
- More client delivery.
- All applications to be made directly to Wales European Funding Office which should decide on eligibility in 30 days. WEFO would communicate its decisions to regional and local partnerships which would then make a decision on the desirability of a project. Applications would then move on to the new strategic partnership.
- The new proposal for strategic partnerships would integrate local and regional partnerships, the group recommended four strategic partnerships: business support, community regeneration, rural and skills.
- The Group also recommended formation of a Strategic Policy group, which would report to the Monitoring Committee and would give valuable expert advice on programme delivery.

The four new strategy partnership have now been established and are based around Business Assets, Human Resource Assets, Community Assets and Rural Assets in accordance with the recommendations. They share joint secretariats with WEFO.

The East Wales Objective 3 programme got underway in December with the first projects worth a total value of over £7.8m being approved. There are 58 projects in total which will include for example the allocation of £888,000 to a project that extends and enhances the work-based Learning for Adults programme in East Wales.

The green light has finally been given for Objective 2 funding in Wales. This will bring around £75m of European money to Cardiff, Newport and Powys as well as other areas in East Wales. The Assembly has already set in place a strategy to market the best use of this funding with a target to create 5,100 new jobs and to support the setting up of 820 new firms during the seven year lifetime of the programme.

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<sup>29</sup> See previous Monitoring Report, *Coalition Politics Come to Wales*, page 25.

## **Education and Lifelong learning**

Speaking to the Welsh Labour Party's Spring Conference at Swansea Education Minister Jane Davidson announced she would be abolishing school league tables in Wales. She said she would be consulting widely as to what to put in their place. The alternative information would illustrate the extent to which schools had been able to contribute to the well-being of their pupils rather than produce misleading data on competition between them:

“This is not about removing information from the public domain. It is about publishing in a way which is useful for parents. But what use is it to say that a school is third from the bottom of a national list?”<sup>30</sup>

The newly-formed Education and Lifelong Learning Committee swung into action by launching a *Review of Higher Education*. The details of its remit were established in a committee meeting in November. It is intended that the Review will

'... identify a vision for Higher Education in Wales and how it should serve the country's needs, and develop a long-term strategy for optimising the sector's contribution.”

It will also

“ ... take account of the National, European and wider international dimensions involved, together with the various teaching, researches, cultural, vocation and economic missions within the sector.”

In particular the study will address:

- (i) The range of disciplines and activities within Higher Education.
- (ii) The portfolio of research undertaken within the sector, and the amount and pattern of research funding obtained from the HEFCW (Higher Education Funding Council for Wales ), Research Councils and other sources.
- (iii) The economic mission of higher education institutions in relation to wealth and job creation and the commercial exploitation of knowledge.
- (iv) The scope for collaboration and integration within the higher education sector and also partnership between Higher Education institutions and schools, further education institutions and others in order to continually raise standards of both teaching and research.

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<sup>30</sup> Western Mail, 3 March 2001

- (v) Student financial support and its effect on the volume and pattern of recruitment.
- (vi) The Assembly's statutory powers and any constraints they impose on the strategic development of higher education in Wales.
- (vii) The policy study should describe the opportunities for strategic development, make recommendations for action and set targets for achievement, having due regard to competing priorities and constraints on resources.

It is hoped that every Higher Education Institution in Wales will have the opportunity to make a presentation to the Committee.

An independent investigation into the issue of student hardship was commissioned by the Assembly Minister for Education and Lifelong Learning in December as promised in the Partnership Agreement. It is expected that its conclusions will feed into the above review of Higher Education. The investigation will deal with the issues of student hardship and funding covered in the Scottish 'Cubie' Report which fall within the Assembly's remit. Accordingly the investigation will, taking into account the powers of the National Assembly for Wales:

- Consider the evidence on the extent of student hardship and the public perception of it.
- Assess the impact of the introduction of tuition fees on participation in higher education in Wales.
- Consider whether there are any gaps in the emerging higher education student support system and identify possible interventions by the National Assembly.
- Advise on the effective use of the increased resources which the National Assembly is making available for Access and Hardship Funds for students in further and higher education.
- Identify, having regard to the Assembly's proposed budget for Learning Maintenance Allowances to be introduced in 2002-03, what, if any, further intervention on student support in FE should be made, and cost proposals.
- Provide a report with recommendations and estimates of costs to the Minister for Education and Lifelong Learning by Easter 2001.

The report of the investigation is due to be completed by Easter.

Another investigation has been launched by the Education Minister into issues relating to care planning of special needs children. The inquiry is expected to make recommendations on issues such as guidance, preparation of care plans, staff training and multi-disciplinary working.

The main recommendations of the now defunct Pre-16 Education Committee's policy review on Information, Communications and Technology in Education were relayed to the new Education and Lifelong Learning Committee in November. Its three final recommendations were :



- (i) The creation of three bodies: a Policy Advisory Committee for ICT with a precise three-year development brief for ICT in Welsh Schools; an Information and Communications Technology Task Force as an arm's length agency to carry out the three year development programme for ICT in schools; and *A National Grid for Learning Wales* team to provide all the appropriate curriculum services needed.
- (ii) Asking ESTYN to expand input on ICT in initial teacher training and investigate the possibility of producing a rolling programme of ICT training for teachers throughout their careers.
- (iii) The investment of £1million over 3 years to ensure creation of the above three bodies.

The final draft has been accepted by the Committee and will be discussed at the full Plenary Session in March.

A draft *National Languages Strategy* for Wales was launched in December. This aims to improve the take-up of foreign language study beyond the age of 14. Following further consultation on the draft, the Strategy will be published in Spring 2001. To accompany the Strategy the Assembly has increased its funding to the Centre for Information on Language Teaching and Research by £20,000 this year.

The *Knowledge Exploitation Fund* initiative began in January. The project will receive a total of £34 million in funding until 2003-04. This will go towards funding 'Entrepreneurship Champions' who have been appointed to every higher and further education institution in Wales. They will have the responsibility of promoting enterprise amongst the students.

As part of the ICT for Learning Strategy Jane Davidson has allocated £15.76 million worth of a spending package towards extending access to ICT facilities for schools and learners across Wales. The package entitled *ICT for Learning - A Prospectus* will invite Local Education Authorities to submit proposals for the development of ICT learning centres in schools and community venues as well as specific initiatives to help disadvantaged communities and pupils with special needs.

## **Health**

In addition to the launch of the National Health Plan for Wales, dealt with in the opening Section on the Administration, there were other important developments in health policy during the past few months. In the Queen's Speech came the announcement that the powers of the Children's Commissioner for Wales were to be extended in a special Bill during the next Parliamentary session. This will be the first Wales-only bill since devolution. The Commissioner's powers achieved under the Care Standards Act had to

be confined to children's services regulated by the Act whereas the new Bill will enable the Commissioner to have powers in other areas where children are involved too.

In early February the Health Minister announced that a new School of Medicine is to be established in Swansea supported by £6 million worth of funding from the National Assembly. It is expected that the school will open in September and will train an extra 100 medical students per year.

The administration has received the preliminary response to the consultation on the *All Wales Adult Mental Health Strategy*. The general consensus is that serious concerns do exist about the current draft. Most of the concerns are that the Strategy lacks a specific 'vision' although much of its practical content is appropriate. A quote from Powys' Mental Health Alliance included in the Assembly Health minister's monthly report perhaps summed up the reactions to the document:

'While we endorse the principles, aims and objectives of the document we found it to be lacking in strategic direction and vision.'<sup>31</sup>

A *Strategy for Older People* is to be formulated by Easter 2001 by a specially convened steering group chaired by Brian Gibbons and Jane Hutt. Its tasks will be to audit existing programmes and initiatives targeted at care of the elderly, to review current policy objectives and to provide an analysis of gaps in current programmes and to recommend priorities for future development. The Strategy will also draw upon the work of the Emergency Pressures Task Force, the Carers Strategy and other relevant material.

Another investigation was launched by the Assembly Health Minister in January when she established a Task and Finish Group to look at workforce issues within the social care sector in Wales. It will address the problems of staffing within the social care sector particularly the recruitment and retention of social workers. This followed concerns from the health and Social Services Committee members following a paper on progress made on implementing the recommendations of the *Lost in Care* report. Many of the comments received related to staffing and training issues. The Task Group will be led by the Chief Inspector of Social Services in Wales, Graham Williams, and will include representatives from the Association of Directors of Social services, the private and voluntary sector and education interests.

A three-year programme to promote health and well being in Wales was launched on November 30. The programme includes action to identify what need to be done to promote health among people in vulnerable and disadvantaged communities. Local Health Alliances will help realise the full potential for local authorities to work towards reducing inequalities in health. The programme also includes action to tackle priorities such as smoking and healthy eating, initiatives to harness the potential of schools to improve the health of young people, and work to help communities address local issues that affect health.

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<sup>31</sup> Minister for Health Monthly Report to Health and Social Services Committee 24 January 2001

As a reaction to severe staffing problems experienced in Wales, in particular the lack of nurses signalled by the recruitment of nurses from abroad in several of our health trusts the Assembly has provided £420,000 to establish 11 nurse, midwife and health consultant posts in Wales. It has also invested £200,000 in Return to Nursing courses. A special phonenumber has also been set up for former staff to contact if they are thinking of coming back to the health services.

## **Agriculture and Rural Development**

In accordance with their Annual Business Programme the Administration have brought forward proposals to create an Independent Appeals Mechanism for farmers. The need for such mechanisms were felt to be necessary due to concerns from the farming industry that officials from the Assembly act as both judge and jury on the imposition of penalties upon farmers for infringement of European subsidy scheme rules. The consultation paper proposed an appeals process of four separate stages and the creation of a new Appeals Unit staffed by Assembly officials and an independent advisory panel of arbiters.

The consultation period for the Mechanisms ended in December with over a third of responses stating that they believed that four separate stages was too bureaucratic. The Administration will now work on incorporating the recommendations into the proposals.

The commitment for the provision of free milk to schoolchildren presented in the Partnership Agreement has been acted upon quickly. The School Milk Regulations came into force in February. Under these regulations the Assembly will pay for free milk for all school pupils up to Key Stage 1.

A draft outline *Strategy for Woodland* has been prepared by a Working Group of officials from the National Assembly and public agencies chaired by the Forestry Commission. In draft this declares:

“Our vision for the next fifty years is of high quality woodlands, sustainably managed, that enhance the landscape and are appropriate to local conditions and have a diverse mixture of species and habitats.”

The strategy envisaged specifies:

- (i) Delivering more and better woodlands, by promoting the most appropriate silvi-cultural practices, more continuous cover forestry and multi-purpose management.
- (ii) Developing Wales as a world-class location for forest industries.
- (iii) Improving landscape design standards, protecting biodiversity and cherishing our woodland heritage.
- (iv) Supporting community development and
- (v) Promoting tourism, recreation and health.

In parallel with the above strategy the new *Working with Communities Initiative for Forest Enterprise* was launched. Forest Enterprise is the agency of the Forestry Commission that manages the National Assembly's woodlands holdings. This initiative explains how the Assembly will encourage people throughout Wales to play a part in decision making in the woodlands close to the communities in which they live.

A review of policies to promote a more diverse rural economy has been a major part of the Committee's work programme in recent months. As part of the *Diversification Review* evidence has been presented to the committee on topics ranging from land use planning to education and training and the provision of business support in rural areas.

A draft interim report was proposed in the Committee in February and highlighted the priorities which will form the basis of the final report:

- (i) Promoting business development
- (ii) Spreading economic prosperity
- (iii) Developing skills to match business needs
- (iv) Strengthening communities
- (v) Improving access to rural services
- (vi) Investing in rural infrastructure
- (vii) Enhancing the rural environment.

The main purpose of the report will be to enable the Assembly to give a clear and strategic lead to co-ordinate and focus rural development policy.

Carwyn Jones, the Minister for Agriculture and Rural Development also announced that he is setting up an all-party task group to consider the National Assembly's role in making regulations on GM matters. The group will look at the hearing procedure, the seed marketing regulations, planning issues in controlling GM crops as well as other powers that the National Assembly may be able to require in relation to GM crops.

## **Local Government and Housing**

Work on the National Housing Strategy has reached the consultation stage. The document, entitled *Better Homes for People in Wales* offers a set of proposals to tackle the housing problems in Wales. Proposals include:

- (i) Increased emphasis on tackling problems of homelessness, including the establishment of a homelessness commission.
- (ii) A major new programme *Communities First*, worth £83 million over three years, to bring a community led approach to tackling social disadvantage in Wales' most deprived communities.
- (iii) The new Home Energy Efficiency Scheme to provide over £32 million to tackle problems of fuel poverty, benefiting 38,000 of Wales's poorest households by 2003.

- (iv) Continued support for sustainable homeownership, including more flexibility for local authorities to decide how renovation grants are used in accordance with local needs and priorities.
- (v) The development of a specific strategy to meet the housing needs of minority ethnic groups.
- (vi) Extension of the Care and Repair service to the whole of Wales, providing help and advice for elderly and disabled persons and assisting with repairs and improvements.
- (vii) All new housing association homes in Wales to be built to 'Lifetime Homes' standards, enabling them to be easily adapted to meet the changing circumstances of their occupants.
- (viii) Measures to bring about improvements in the private rented sector, including the licensing of housing in multiple occupation.

The document was debated in Plenary in November and following consultation the final version of the strategy is expected to be launched in the summer.

A new Commission has been established to advise the National Assembly on how it should deliver the objectives to reduce homelessness that were set out in *BetterWales.com*.

Established as a 'task and finish' group the Commission's remit will be to form a strategy that will advise the Assembly on:

- Delivering the objectives in *Better Wales.com* to reduce (by 2003) the number of homeless families in temporary housing to below 500.
- Taking forward the recommendations in the Assembly report *Rough Sleeping in Wales* and the recommendations of the Housing Strategy task groups relating to homelessness and rough sleeping.
- Delivering local homelessness strategies in all Welsh local authorities.
- Setting targets and outcomes.
- Measuring homelessness and rough sleeping.
- The options for the long term funding for homelessness services in Wales, particularly in relation to 'Supporting People.'

The group will be chaired by the Liberal Democrat Deputy Minister Peter Black and will also include local government officers, housing professionals and other AMs. It is expected that it will make its recommendations on taking forward the Assembly's strategy for dealing with homelessness by early summer 2001.

Another independent investigation into councillors' allowances began in November. This is the third independent investigation into the matter following the row over Cardiff Council's allowance to their Chief Executive, Russell Goodway. The investigation is to produce a report on guidelines for councillor's pay by June this year.

Edwina Hart, the Minister for Finance, Local Government and Communities, has extended the assistance available to people in rural areas to buy homes. Under the

'Homebuy Scheme', Registered Social Landlords (usually Housing Associations) provide interest free equity mortgages to people who would not otherwise be able to buy a suitable property as an alternative to rent. In the past, RSL's were only able to take an equity share of up to 30 per cent. However, the Assembly is now providing funding to RSL's to enable them to take an equity share of up to 50 per cent in the property. Under this scheme people will now only have to buy half a house to live in it. In addition, the mortgage will be interest free.

*Communities First*, one of the Assembly's most high profile policy documents has now been subjected to its second round of consultation. It outlines the Assembly's strategy to tackling social disadvantage in Wales's deprived communities and the consultation period is expected to end in March.

### **Environment, Planning and Transport**

In mid-November the National Assembly upheld its statutory duty under Section 121 of the 1998 Government of Wales Act which was to establish a *Sustainable Development Scheme* to cover every aspect of policy development in the Assembly.

The document entitled *Learning to Live Differently* establishes the Assembly as one of the first governments in Europe to adopt its own sustainable development scheme. Henceforth, policies - whether they cover economic development, social exclusion, the environment or transport - will all be moulded to meet the demands of the *Sustainable Development Scheme*. The vision of the document is of a Wales which is:

- (i) United, confident, outward looking and creative
- (ii) Prosperous, well-educated, skilled, healthy and environmentally rich
- (iii) Served by a modern, efficient and accessible public service
- (iv) Active in its local communities, where the voice of local people is heard
- (v) Fairer, a place where everyone is valued and encouraged to play a full part.

A detailed action plan on how this important document will be implemented is now being formulated and will be considered in plenary in late February. The scheme is being used as the basis for applications under the new European *Innovative Actions Programme*. Wales will be able to receive up to 3m euros from the European Union to fund projects which explore innovations in promoting sustainable development. In January the Assembly launched a consultation exercise to invite outline project bids and comments on the way forward. In March the Assembly will select up to four projects to be submitted to the European Commission. The funding will be available for two-year programmes which will comply with the following guidelines:

- (i) Use skills, flair, ingenuity and regional identity to promote sustainable development and thus create a sustainable society in Wales.
- (ii) Use innovation and technology to achieve sustainable success in the new knowledge-based economy.
- (iii) Exploit information and communications technology to improve effectiveness and competitiveness and help reduce the demands on natural resources and bridge any 'digital' divides.

The Assembly is currently in the process of reviewing the Waste Strategy for England and Wales which was published in May 2000. A consultation draft for a separate *Wales Waste Strategy* is to be issued in Spring 2001. The Strategy is being formulated by the Administration and an especially convened Wales Waste Forum. The forum contains representatives from business, local authorities, the waste management industry, community and public sectors. The Administration wants the strategy to encourage the composting of biodegradable and green waste and the separate collection of materials like glass, paper, plastic and metals. It has already allocated £40 million of its budget over the next three years to fund the development of the Strategy.

In January the Assembly Minister for the Environment, Planning and Transport launched a major package worth £300 million to be invested in transport over the next five years. This will be spent on revamping the road and rail network across Wales, including the following projects:

- £10.7m to support rail infrastructure improvements, including work to upgrade the Vale of Glamorgan railway line for passenger services. This grant is linked with support from the Strategic Rail Authority (SRA) for hourly services. It is expected that the first passenger services will be operational in the autumn 2002 timetable.
- £23.2m of continuing support for integrated transport schemes across Wales, including support for partnership approaches in north Wales, and for consortia bids from SWITCH (South West Integrated Transport Consortium), SWIFT (South Wales Integrated Fast Transit) and TIGER (Transport integration in the Gwent Economic Region) in South Wales.
- An 85 per cent increase in the funds made available for councils' Safe Route to Schools initiatives, providing £2.7m support for a total of 19 schemes, covering 84 schools in Wales.

The administration is also working on a *Transport Framework for Wales* which will be issued for consultation in March. The purpose of the framework is to:

- Provide a vision of the integrated transport system we want.
- Translate into transport policy the Assembly's overriding aims as set out in *BetterWales* and the *Sustainable Development Scheme*.
- Enable the Assembly and others to take coherent joined-up transport decisions.

- Inform other strategies and policies including, for example, the Spatial Planning Framework and the National Economic Development Strategy, and to include long-term programmes of action e.g. on road and public transport capital investment.

The framework will be based on three main themes which will consist of tackling social disadvantage, promoting equal opportunities and sustainable development. A policy review of public transport is ongoing in the Environment, Planning and Transport Committee. Visits to see examples of best practice are planned for Amsterdam, Oxford, London, Leeds, Sheffield and Frankfurt.

## **Culture**

The Assembly has committed funds to enable the National Museums and Galleries of Wales to charge adults £1 per head admission for their sites and free admission for the disabled and students from 1 April 2001.

A review of the Welsh language policy is to be carried out by the Culture Committee. In early February the following draft terms of reference were tabled:

“The Culture Committee's review will seek to define more closely the National Assembly's established objective of *creating a bilingual Wales*. The Committee will aim to suggest a concrete strategy of actions for achieving that objective.”

Evidence taking will begin in May and will last until the summer recess. An expert advisor will be appointed to assist with the review which will be based around the following themes:

- (i) Enabling people to use either language or both in all aspects of national life and in their communities.
- (ii) Supporting Welsh as a family and community language.
- (iii) Providing opportunities for people to learn Welsh, and to use it.
- (iv) Promoting equal respect for both Welsh and English, and maintaining national consensus and goodwill about bilingualism.



## **4. THE ASSEMBLY**

**By John Osmond, IWA**

### **Debate on the Queen's Speech**

In an earlier Monitoring Report a judgement was made that the way the parties in the Assembly, and in particular the Labour Party, vote on the Queen's Speech over successive years will mark out the extent to which a distinctive Welsh political culture, separate from that at Westminster, is emerging.<sup>32</sup> As Rhodri Morgan put it in this year's debate on the Queen's Speech:

“We do not have primary legislative powers, therefore we must relate to the Queen's Speech in a way that the Scottish Parliament does not.”<sup>33</sup>

What he was articulating was the Assembly's need to influence the content of the Queen's Speech at Westminster if it is to make progress with its own policy agenda on major concerns. The mechanisms through which this is undertaken, and their relative success, is analysed in some detail in the later Section in this report dealing with the Assembly's Operational Review. Here some of the divisions that took place in the debate are examined to test the extent to which the parties are adopting different positions from those held at Westminster.

Given its timing in the run-up to the anticipated general election, this was an atypical Queen's Speech, short on content and even shorter on controversial matters. However, two issues emerged in the Assembly's debates which saw the two main parties, Labour and Plaid Cymru, divide internally. These were around the question of jury trials and hunting. Aside from these Plaid Cymru put forward an amendment specifically in the hope of dividing Welsh Labour from New Labour. This noted, with regret

“... the lack of legislation indicating any commitment to social and geographic redistribution of wealth and prosperity.”<sup>34</sup>

Labour would not be drawn on that. However, it could not avoid displaying its divisions on a Liberal Democrat amendment reaffirming the Assembly's

“... previously stated belief that the abolition of defendants' right to opt for jury trial proposed in the re-introduced Criminal Justice (Mode of Trial) Bill amounts to a serious erosion of civil liberties.”<sup>35</sup>

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<sup>32</sup> *Devolution Relaunched: Monitoring the National Assembly December 1999 to March 2000*, IWA, March 2000, page 3.

<sup>33</sup> *Assembly Record*, 19 December 2000

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

This was approved by 28 votes to nine, with 13 abstaining. The votes in favour came solely from a combination of Plaid Cymru, Liberal Democrat and Conservative Members. Nine Labour Members voted against:

Lorraine Barrett (Cardiff South and Penarth)  
Richard Edwards (Preseli)  
Delyth Evans (Mid and West Wales)  
Brian Gibbons (Aberavon)  
Janice Gregory (Ogmore)  
Jane Hutt (Vale of Glamorgan)  
Ann Jones (Vale of Clwyd)  
Huw Lewis (Merthyr)  
Lynne Neagle (Torfaen)

while the following 13 Labour Members abstained:

Christine Chapman (Cynon Valley)  
Andrew Davies (Swansea West)  
Val Feld (Swansea East)  
John Griffiths (Newport East)  
Edwina Hart (Gower)  
Christine Gwyther (Carmarthenshire West and South Pembrokeshire)  
Carwyn Jones (Bridgend)  
Peter Law (Blaenau Gwent)  
Tom Middlehurst (Alyn and Deeside)  
Rhodri Morgan (Cardiff West)  
Alun Pugh (Clwyd West)  
Karen Sinclair (Clwyd South)  
Gwenda Thomas (Neath)

These votes registered significant shifts compared with the previous February<sup>36</sup>. Then a vote on the same amendment found 15 Labour AMs voting in favour:

Andrew Davies (Swansea West)  
Ron Davies (Caerphilly)  
Richard Edwards (Preseli Pembrokeshire)  
Sue Essex (Cardiff North)  
Val Feld (Swansea East)  
John Griffiths (Newport East)  
Christine Gwyther (Carmarthenshire West and South Pembrokeshire)  
Alison Halford (Delyn)  
Edwina Hart (Gower)  
Carwyn Jones (Bridgend)  
Peter Law (Blaenau Gwent)  
John Marek (Wrexham)  
Tom Middlehurst (Alyn and Deeside)

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<sup>36</sup> *Assembly Record*, 2 February 2000

Alun Pugh (Clwyd West)  
Karen Sinclair (Clwyd South)

Only four Labour Members voted against:

Brian Gibbons (Aberavon)  
Huw Lewis (Merthyr)  
Alun Michael (Mid and West Wales)  
Lynne Neagle (Torfaen)

while four abstained:

Lorraine Barrett (Cardiff South and Penarth)  
Janice Gregory (Ogmore)  
Ann Jones (Vale of Clwyd)  
Rhodri Morgan (Cardiff West)

Plaid Cymru's internal divisions came as a result of the party allowing a free vote on an pro-hunting amendment, tabled by the Conservatives, which noted:

“ ... the detrimental impact a ban on hunting with dogs would have on the Welsh rural environment. The Assembly calls on its Members to express their support for hunting and asks that in accordance with section 33 of the Government of Wales Act 1998 the views of the Assembly are relayed back to the UK Government. The Assembly calls upon the UK Government , in the spirit of devolution, to take full account of its views.”<sup>37</sup>

This amendment was defeated by 28 votes to 15, with six abstaining. Most of the opposing votes came from the Labour Group. A further analysis reveals that the Plaid Cymru Group divided three ways, largely on the basis of an urban/rural split. Three Plaid Members voted for the amendment:

Cynog Dafis (Mid and West Wales)  
Elin Jones (Ceredigion)  
Rhodri Glyn Thomas (Carmarthen East and Dinefwr)

Five Plaid Members voted against:

Geraint Davies (Rhondda)  
Brian Hancock (Islwyn)  
Pauline Jarman (South Wales Central)  
Janet Ryder (North Wales)  
Owen John Thomas (South Wales Central)

While six Plaid Members abstained:

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<sup>37</sup> *Assembly Record*, 19 December 2000

Janet Davies (South Wales West)  
Jocelyn Davies (South Wales East)  
Helen Mary Jones (Llanelli)  
Ieuan Wyn Jones (Ynys Mon)  
Dai Lloyd (South Wales West)  
Phil Williams (South Wales East)

### **The Census ‘Tick Box’ Debate**

Following a Plenary debate in December the Assembly voted unanimously to call upon the Westminster Government to include a Welsh identity tick box in the census forms being distributed later this year. Census forms in Scotland will include a tick box for Scottish people and the Irish will have their tick box on forms distributed in Wales. The Government has said that reprinting the census forms for Wales and amending the software to count a Welsh tick box would cost £2.5 million.

The lack of a tick box has prompted widespread anger in Wales and a campaign led by the Western Mail and the newly formed Welsh Independence Party. In December a petition with more than 10,000 signatures was delivered to Number 10 by the Western Mail. In the debate called by Plaid Cymru, its leader Ieuan Wyn Jones said:

“We are calling on the Office for National Statistics and the UK Government to respect the will of the people of Wales as expressed through our democratically elected national body.”<sup>38</sup>

### **Office of the Presiding Officer**

In December the Presiding Officer, Lord Elis-Thomas, announced the appointment of Paul Silk, currently a clerk in the House of Commons, as the new Clerk to the Assembly in succession to John Lloyd who retires in March.<sup>39</sup> This is a significant appointment since it confirms that the Assembly is determined to continue its drive towards becoming a body more parliamentary than corporate in character.<sup>40</sup>

A Welshman from Breconshire, Paul Silk, who was appointed in competition with internal senior civil servants, has 25 years experience in the House of Commons. Unlike the Commons or the Scottish Parliament, the staff serving the National Assembly are part of the mainstream civil service. However, moves are underway to establish greater independence for the Office of the Presiding Officer, and a de facto split between

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<sup>38</sup> *Assembly Record*, 6 December 2000

<sup>39</sup> *Assembly Record*, 19 December 2000

<sup>40</sup> See the previous Monitoring Report, *Coalition Politics Come to Wales*, IWA, December 2000, for a detailed analysis of this development, pages 13 to 18.

Administration officials and those serving OPO. Paul Silk's appointment is likely to underline and give momentum to this development.

## **5. THE ASSEMBLY'S OPERATIONAL REVIEW**

**By John Osmond, IWA**

In July 2000, the First Minister announced a review to discuss how the Assembly had operated in its first year, and to establish the lessons that might be learned. However, as a result of the Coalition negotiations and the formation of the new government in October 2000 the Review did not get underway until early in 2001. The principles on which it would be conducted were outlined in an Assembly Press Release in mid January:

- The review should proceed as far as possible on the basis of all-party consensus. Accordingly, it should focus on the workings of the Assembly rather than on matters of policy.
- In the interest of producing proposals which the Assembly could implement quickly, the review should not make recommendations which would require changes to the Government of Wales Act or other legislation which it is beyond the Assembly's competence to amend.
- The review group will normally meet in public and, where appropriate, should hear oral contributions from interested parties inside and outside the Assembly.
- The review group should meet at least monthly, but no meeting should take place if one or more of the parties in the Assembly is unable to supply a representative.
- The review will aim to make final recommendations which the Assembly could be invited to implement by November 2001, and may make interim recommendations for the Assembly's approval if it believes these are merited.
- The review should not prejudice or delay more ad hoc and/or minor alterations to the Assembly's standing orders via the Business Committee in the usual way.

The review group comprises the Presiding Officer and Deputy, one of whom will chair each meeting; the First Minister; the leaders of the other parties in the Assembly; the Minister for Assembly Business; and the business managers for each of the other parties in the Assembly. The Secretariat led by Marie Knox, Head of Committee Secretariat, Office of the Presiding Officer, issued the following guidelines for the Review's agenda:

### **The Assembly's internal procedures**

- The Cabinet and its relationship with the rest of the Assembly
- Plenary debates: their purpose, content and outcomes
- The role and operation of Subject Committees – policy development and scrutiny
- The role and operation of the Regional Committees
- The role and operation of the Assembly's Standing Committees (for instance on Europe and Equality of Opportunity)

- Subordinate legislation procedures

### **The Assembly, Wales and beyond**

- The Assembly's relationship with all parts of Wales
- The Assembly and its partners: business, the voluntary sector and local government
- The Assembly, the UK Government and Westminster
- The Assembly's relationship with the European Union
- Bilateral relations between the Assembly and other national and regional governments<sup>41</sup>

As a result of the Coalition Agreement between Labour and the Liberal Democrats the Review will clear the ground for a more far reaching examination of the Assembly's powers, to be examined by an independent Commission that is likely to be appointed some time during 2002, reporting after the next Assembly elections in May 2003<sup>42</sup>. In an exchange in Plenary session in December 2000, responding to a question from Alun Cairns (Conservative) on European Union enlargement, First Minister Rhodri Morgan drew attention to the timing of these events:

“The next inter-governmental conference will be in 2004 and will aim to define clearly the respective roles of the regional tier – which would include us, the German *Lander*, the Italian Regions and so on – the Member States and the European tier. Therefore there will be an enormous opportunity for the Assembly to play a part in the preparations for that summit. Its timing could not be better, considering that the Partnership Agreement document plans a review of the Assembly's powers, which will report back to the Assembly after the next Assembly elections in May 2003. This will be just in time for the 2004 inter-governmental conference on the respective roles of the Regional, Nation State and European tiers of government.”<sup>43</sup>

Meanwhile, the Operational Review was intended to get to grips with more prosaic matters such as the running of the Committees and the Assembly's relationships with outside organisations. Indeed, Lord Elis-Thomas the Presiding Officer insisted that the Review should not be over-ambitious, saying that calling for legislative powers at this stage was “premature” :

“What we should do is use the powers we've got properly, but we are not doing that yet. I'm sure primary functions is Plaid policy but I don't think we are up for it

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<sup>41</sup> Assembly Press Release 17 January 2001

<sup>42</sup> See the previous Monitoring report, *Coalition Politics Come to Wales*, IWA, December 2000

<sup>43</sup> Assembly *Record*, 19 December 2000

yet. If we were to be given the opportunity of legislating within a single Bill on one policy area that would indicate clearly what we are capable of doing. That's not devolution by the backdoor. That's something that can be done now."<sup>44</sup>

However, attention quickly focused on two related issues that directly impinge on the Assembly's wider competence: its role in the legislative process and its relationship with Westminster and Whitehall.

### **Influencing Primary Legislation at Westminster**

A core issue facing the Review Group was to devise procedures which would more effectively ensure that the Assembly's wishes were taken into account when primary legislation was drafted at Westminster. Opening the debate on the Queen's Speech in December, First Minister Rhodri Morgan remarked that during the preceding few weeks he had answered 23 questions on what the Cabinet had been doing to influence the process and content of primary legislation.<sup>45</sup> And, indeed, amended resolution at the end of the debate, approved overwhelmingly by 49 votes, with one abstention (Rod Richards) calls for the following to be implemented :

- (i) The First Minister to publish a detailed account of the procedures through which the Assembly can influence the content of the government's legislative programme.
- (ii) The First Minister and Secretary of State for Wales to ensure that all Bills which impact on the functions and responsibilities of the Assembly are drafted in such a way as to permit the Assembly maximum flexibility in implementing their provisions and developing policy in the areas concerned<sup>46</sup>.
- (iii) Remission of relevant Bills to the appropriate Assembly Subject Committees for consideration as to the provisions they should make for Wales and how the Assembly might use the powers in the Bill.
- (iv) Assembly Ministers to make statements prior to the conclusion of Bills which concern the powers of the Assembly detailing the extent to which any amendments to them reflect the representations made by the Assembly.

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<sup>44</sup> *Speaker warns against taking a 'premature' step*, South Wales Echo, 5 February 2001

<sup>45</sup> *Assembly Record*, 19 December 2000

<sup>46</sup> In the forthcoming session the Bills in question concerned the Children's Commissioner for Wales, Health and Social Care, Homes, Regulatory Reform, and Special Educational Needs and Disability.



- (v) Consultation between the Assembly Cabinet and the Assembly on which Wales-only Bill should be requested in each UK Parliamentary Session.

Most of these requirements were agreed as a result of amendments placed by Plaid Cymru and accepted by the Coalition administration. If implemented they would place a significant additional workload on an already overstretched Assembly and Administration. Opening the debate the First Minister dwelled at some length on the Administration's "success" in influencing legislation at Westminster:

"Last year we secured two substantial Bills which made different provisions for Wales, at our request. There were 11 other Bills that gave the Assembly new powers. In every case, the provision for Wales was obvious in the Bill. That has continued this year with the step to extend the powers of the independent Children's Commissioner for Wales ... It is worth pointing out that only four Wales-specific Bills have reached the statute book since 1974, during more than a quarter of a century of the former system. That is important when you consider how much of a difference the Assembly has made. I do not think that any of this progress would have occurred without the process of devolution. Before the Assembly, Bill usually dealt with England and Wales on the same terms, as if the needs of the two countries were identical. Even the Secretary of State for Wales rarely gained powers. They were given to the UK Government and divvied up at the Government's discretion. We have made a positive difference and will continue to do so. Those who attempt to prove otherwise have a private agenda and are trying to destabilise the settlement and to prove that it is not working or cannot work."<sup>47</sup>

However, according to Presiding Officer's legal adviser, David Lambert, apart from Parliament's acceptance of the Assembly's wish to establish a Children's Commissioner in Wales<sup>48</sup>, substantial examples of the Assembly influencing Westminster legislation are less easy to find. The Assembly's resolution adopted at the end of the debate on the Queen's Speech would help to address this. At the same time he has listed five broad problems facing the Assembly in attempting to influence legislation at Westminster<sup>49</sup>:

- There is no procedure currently set out in either the Government of Wales Act or the Assembly's Standing Orders for transmitting the comments of the Assembly to Government Departments about the nature of functions which the Assembly should exercise under forthcoming Bills. The Act requires the Secretary of State for Wales to appear before the Assembly after the annual Queen's Speech.<sup>50</sup> The Secretary of State can then be questioned on these proposals. The Standing Orders provide for there to be a debate with the Secretary of State on the proposals, but that is all.<sup>51</sup> Whether the Secretary

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<sup>47</sup> *Assembly Record*, 19 December 2000

<sup>48</sup> Section 72 of the Care Standards Act 2000 and the additions made to the Act by the current Children's Commissioner for Wales Bill.

<sup>49</sup> David Lambert, *A Voice for Wales: The National Assembly for Wales*, Welsh Legal Historical Journal, Cardiff Law School, forthcoming 2001.

<sup>50</sup> Section 76 of the Government of Wales Act

<sup>51</sup> Standing Order 6.5.

of State transmits the views of the Assembly to his Government colleagues or how the Assembly analyses the proposed legislation with the aim of setting out reasoned arguments for greater scope to be given to the Assembly to exercise functions under proposed legislation is not a matter considered by the Act or the Standing Orders. The result is that so far there has been no such analysis and no reasoned views given to the Secretary of State.

- There is no overall agreement between Government Departments that Bills giving powers to the Assembly should be drafted in such a way as to permit the Assembly maximum flexibility. To achieve such agreement, principles would need to be set out in Concordats between the Assembly and each Government Department. There are no such principles, a situation amply illustrated by the specific and parsimonious powers given to the Assembly under the Local Government Acts 1999 and 2000. To achieve a maximum flexibility in implementing the provisions in primary legislation and in developing policy by reference to subject areas, the Assembly will need to have wide subordinate legislative powers given in a Bill which would probably be wider and more comprehensive than those given in the Bill to central government Ministers as regards England. Such powers in a Bill should also enable the Assembly to amend Acts set out in the first Transfer of Functions Order transferring Ministerial powers to the Assembly. Thus in any future Bill on clean air in the environment, not only should the Assembly have flexible powers to implement the subject matter of the Bill, but the Bill should also give the Assembly, if necessary with Parliamentary approval, power to amend any existing relevant environmental legislation which is set out in the Transfer Order and which at present only transfers some powers within Acts to the Assembly. Thus the reference to the Clean Air Act 1993 in the Order which reserves functions in five sections and a subsection of the Act to central government in relation to Wales would be able to be amended so that, unless the integrity of England and Wales is fundamentally affected, all the Ministerial powers in the Act, unless otherwise amended by the Bill, would be exercisable by the Assembly, thus bringing the concept of allowing the Assembly to have general policy making capabilities in relation to clean air both under the new powers in the Bill and under existing powers in the Clean Air Act. It should perhaps be noted that the exercise of Ministerial powers in existing legislation relating to clean air in Scotland is a matter solely within the jurisdiction of the Scottish Executive, there being no relevant exceptions in Schedule 5 to the Scotland Act. A current problem in achieving the goal of comprehensive powers is that wide Ministerial powers in Bills to amend existing legislation are known as Henry VIII powers in recognition of the powers taken by Henry VIII under the Supremacy Acts of 1535 and 1536 to disestablish the Roman Catholic Church. Government Departments are no strangers to the exercise of this legislation<sup>52</sup> but some seem to exhibit a marked reluctance

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<sup>52</sup> Two of the more extensive examples are Part I of the Deregulation and Contracting Out Act 1994 and the Pollution Prevention and Control Act 1999.

to agree to the Assembly exercising such powers, possibly because the Assembly is not part of central government. However, if devolution means that Ministerial powers are exercisable by the Assembly in relation to Wales then it is difficult to justify an outright refusal to contemplate the Assembly exercising a particular type of Ministerial power. There is no evidence to show that the Assembly would abuse this power and many Henry VIII powers are given to Government Ministers for the better and more comprehensive exercise of powers under an Act. This is what the Assembly seeks. If there is concern, then any such power could be exercisable by the Assembly with Parliamentary consent or both with such consent and the consent of a Minister.<sup>53</sup>

- Analysis of Bills presently before Parliament might be achieved by implementing the third part of the Assembly's resolution of December 2000 which is to remit five of the most important Bills to the relevant Subject Committees for consideration.<sup>54</sup> The problem here is that if these Committees were to fulfil the remit of the Assembly and report by 13th February as to the provisions the Bills should make for Wales and how the Assembly might use the powers, considerable prior briefing material would need to be prepared. Moreover the Committees would need to meet many more times than the one slot that is all that was available to them before the February deadline.
- The lack of any formal machinery for making representations by the Assembly to Government Departments may militate against the implementation of this part of the December resolution. If it is difficult to make representations then there will be little for Assembly Ministers to report to the Assembly about the extent to which representations which they have made have been reflected in amendments made during the passage of Bills through Parliament. One of the problems that backbench MPs and members of the House of Lords have had in proposing amendments to Bills in the last two sessions of Parliament to enable the Assembly to have sufficiently loose and flexible powers to create its own policy is that they have not been aware of what amendments the Assembly would wish to have. There is seemingly no channel of communication between Assembly Members and members of either House in relation to this fundamental matter.
- Again as regards the purpose of the December resolution requesting consultation between the Assembly Cabinet and the Assembly as to possible

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<sup>53</sup> The Standing Orders of the Assembly already contemplate such procedures for certain Assembly subordinate legislation - see Standing Order 23, sections 1 and 2.

<sup>54</sup> The Bills were the Children's Commissioner for Wales and Health and Social Care, sent to the Health and Social Services Committee; Homes to the Local Government and Housing Committee; Regulatory Reform to the Economic Development Committee; and Special Educational Needs and Disability to the Education and Lifelong Learning Committee.

Wales-only Bills, there is no prescribed procedure in the Assembly's Standing Orders. Besides the Children's Commissioner proposals which were very much carried forward as a result of the Waterhouse report on children in care in North Wales<sup>55</sup> no proposals for Wales-only legislation have been proffered for discussion by the Assembly.

In the article David Lambert suggests two ways of overcoming these problems:

(i) The Assembly's functions should be clearly set out in Bills when they are published following their first reading in Parliament. Functions of the Assembly in an Act could be given in their totality in a separate Part of the legislation applicable solely to Wales and to the Assembly. There is one example and, at present, only one example of this. The Learning and Skills Act 2000 assigns two separate Parts in the Act to Wales and the Assembly. This gives a clear indication of the Assembly's powers.

(ii) When Bills go through Parliament, explanatory notes should be prepared by the sponsoring government departments clearly indicating in tabular form the functions and particularly the subordinate legislative functions, which would be exercised by the Assembly. So far this has been carried out in relation to one Bill only, the Transport Bill, at the insistence of the House of Lords Select Committee on Delegated Legislation.<sup>56</sup>

### **Responses from the Civil Service to the Review**

A Paper tabled on the Assembly website in mid February, within a special section dealing with the Operational Review, provides an analysis of responses received at that point from Assembly officials. Among the points made were:

### **Plenary Sessions**

- Too much time taken up with making formal decisions on relatively minor practical and housekeeping matters.
- Insufficient focus to many Plenary debates, and inadequate feedback on their progress and outcome to the officials concerned.

### **Questions**

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<sup>55</sup> *Lost in Care*, published February 2000. HC 201, 1999-2000

<sup>56</sup> 20th Report 1999-2000 HL Paper 73 and 37th Report 1999-2000 HL Paper 137

- The number of oral questions allowed to be tabled is too high given the number which can sensibly be reached in any session.
- Too many repetitive questions are allowed.
- Some questions might be more effectively answered by the Library or in correspondence with Ministers.

### **Subject and Standing Committees**

- There is not enough clarity as to Committee roles, particularly the extent to which they should be involved in policy-making.
- Officials are not clear whether their role is to advise the Minister or the Committee. Any de facto move to Westminster-style separation of powers, without clarification of officials' role, would exacerbate that.
- Committee agendas need to be better managed and enforced
- The differences in approach between different Committees makes the preparation of papers for them difficult.
- There is arguably inadequate scrutiny in the European Committee given it is chaired by a Minister.
- The Audit Committee has a clearer role and more tangible outputs (in the form of reports to Plenary) than any other.

### **Subordinate Legislation**

- (i) Subordinate legislation procedures are felt to be too cumbersome and burdensome on staff.
- (ii) Subject Committees might be invited to pass some of the less contentious items to speed up the process and relieve the burden on Plenary.

### **Morale and Working Time**

- (i) There is inadequate understanding on the part of AMs as to the workload to which officials are subjected.
- (ii) It is not easy for officials based away from Cardiff Bay to monitor Assembly business.
- (iii) Many staff feel strongly that the commitment to family-friendly hours extends only to Assembly proceedings, and not to the staff who support them.

A *Miscellaneous* section includes the view that “The Review should consider the relationship between the Presiding Office and the rest of the Assembly”. And an Annex to the Paper carries an extended commentary from Martin Evans, formerly Head of the Devolution Unit in the Welsh Office during the preparation and passage of the Government of Wales Bill and the establishment of the Assembly, and currently

Director of Transport, Planning and the Environment. In it he says the Assembly's successes should be celebrated:

“When democratic institutions fail the results are deadlocks, stand-offs, court challenges, instabilities, corruption. By those standards the basic institutions of the Assembly have stood up well to some tough tests. Even under a minority Administration business was done, the budget was made, a corporate plan (*betterwales.com*) was adopted incorporating a shared set of values. The change of First Secretary and the formation of the Partnership were administered and the organisational consequences – including the changes to Committees – settled quickly. Not all democratic constitutions accommodate their crises so effectively. We have avoided allegations of sleaze. We have made a step change in bilingualism. Greater equality of men and women in the political process has been in evidence – and provides encouragement to corresponding progress at official level.”

At the same time Martin Evans put forward a number of suggestions to improve the Assembly's workings, two of which are considered here. The first addresses the position of civil servants in relation to the policy development role of the Committees:

“Since the setting up of the Assembly there have been a number of innovative developments in officials' working with Cabinet members to develop policy. We've moved beyond just preparing written submissions for decision. In working with Committees, though, there has not yet been the same degree of experimentation with innovative techniques. If we are to make the best use of our resources it would be worthwhile ensuring that there is some space for new approaches other than conventional committee meetings or formal hearings.”

And he makes a plea for a new vocabulary to ensure clearer distinctions are made between Cabinet and Administration and the wider Assembly:

“A particular and serious problem is that parties not in government need to be able to criticise the Cabinet's policies and decisions; but attacks on the failures of the Assembly are all too easily confused – especially in the media – with attacks on the institution as a whole. There's a great difference between arguing that the Cabinet's achievements have been unsuccessful and that devolution was a mistake. ‘The Assembly has failed’ covers both. No prizes for how the media will interpret it – and that reflects the morale of all those who work here. We need some new words; we could achieve that with some new conventions, without altering the institutions.”

## **6. THE LEGISLATIVE PROCESS**

**By Jane Jones, University of Wales, Swansea**

The Assembly's Review of Procedure expressly excludes the question whether primary legislative power should be conferred on the Assembly. This does not however prevent the Review from addressing how the Assembly's internal procedures can maximise its influence on Westminster Bills. The Review's scoping document, detailed in the preceding Section, invites comments not only on internal procedure but also on "The Assembly, Wales and beyond", including "The Assembly, the UK Government and Westminster".

Any such consideration will no doubt include the effectiveness of the Assembly's internal procedures for proposing future Bills or suggesting amendments to them. These are set out in Standing Orders 31.9 to 31.14 and include a duty on the Assembly Cabinet to bring forward proposals for inclusion in each future Queen's Speech, a duty which will be discharged this year in a debate on 1 March. That debate will also embrace comments from Subject Committees on the Bills in the current session which most closely affect the Assembly<sup>57</sup>.

However some significant issues are as much concerned with Whitehall and Westminster procedure as with the Assembly's. Three such issues are outlined below.

### **Presentation and Accessibility of Welsh law**

There is growing awareness of the complexity and in some cases obscurity of the written sources of the Assembly's functions. Identifying the precise scope of the Assembly's powers in a particular field can be a tortuous business.

Sources include the transfer of functions orders under Section 22 of the Government of Wales Act, Acts of Parliament which gloss those functions by providing that they are deemed to include the functions as amended by subsequent Acts, Acts of Parliament conferring new functions directly, and subordinate legislation made either by the Assembly itself or by Whitehall.

The government Bills currently before Parliament follow this piecemeal approach. It is wrong to characterise the issue as one of drafting and presentation. The formulation of new legislative provisions conferring powers on the Assembly owes as much and more to the need to take the most economical course from the point of view of demands on time in the Westminster programme.

Take, for example, the Children's Commissioner for Wales Bill. Unlike so many other Acts from which the Assembly derives functions, this Bill will implement home grown,

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<sup>57</sup> See the motion passed after the Assembly's plenary debate on the Queen's Speech 19 December 2000

Wales only policy. That being the background, one might hope to open the Bill and find within it a comprehensive and discrete account of the role and powers of the Commissioner and the Assembly's responsibilities in relation to the office. On the contrary, the Bill is drafted in the "traditional" way by inserting provisions in existing England and Wales legislation, with many referential provisions not only to the Care Standards Act 2000 which first established the Commissioner but also to other legislation concerning children. Given the pressure on parliamentary time in a session likely to be truncated by a general election, the speed with which it will have been necessary to prepare the Bill and the resources of officials and draftspersons in the Assembly, Wales Office and the Office of the Parliamentary Counsel, it is unsurprising that the drafting takes the most economical route to achieving the substantive objectives. The price of economy however is a lesser degree of accessibility of the law and a lesser identity of it as "Welsh".

Any consideration of the presentation of new legislative provisions to be conferred on the Assembly ought also take into account bilingualism. Experience so far of creating law in English and Welsh is that the drafting in both languages is affected. Ideally this should be considered at the point of construction of the enabling powers since expressions used in the enabling powers must be capable of carrying the same *legal* meaning in the two languages. This is not to say that the enabling power itself should be enacted bilingually but that at least the draftsman ought to have in mind the fact that its exercise will be bilingual. There is as yet no formal mechanism for this to be taken into account in the drafting of primary legislative provisions.

These issues are not amenable to quick or simple solutions. In the long term codification or "simplification" of Welsh law may be an ideal solution, but one which would require a substantial commitment of resources – perhaps along the lines of the UK Tax Re-write Project.

### **Classification of New Functions and Scope of New Enabling Powers**

Schedule 2 to the Government of Wales Act 1998 sets out the fields within which functions may be transferred under the first transfer of functions order. It is not a definitive guide to devolved competence. The power of Parliament to confer new functions is not restricted to the fields in the Schedule 2 list (see s 21 (b) ) of the 1998 Act). However this session's government Bills, like those of last session, disclose a careful approach on the part of the UK Government, seeking to contain new functions within the fields in which the Assembly already has functions.

Section 10 of the Electronic Communications Act 2000, for example, picked a careful path to identifying the precise circumstances in which the Assembly could exercise the power conferred on the Secretary of State by section 8 (power to modify legislation to facilitate electronic communications or storage). The effect, also achieved (somewhat more simply) by section 9(7) in relation to the exercise of the power by Scottish Ministers, is to restrict the use of the new power to matters within devolved competence.



Similarly the Special Educational Needs and Disability Bill now before Parliament treads a careful line in conferring on the Assembly only those functions falling within an area where competence is already devolved. “Special educational needs” falls within the field of “education and training” in which the Assembly has substantial functions already, but “disability” does not.

A further example is hunting which on any analysis touches on the fields of agriculture, sport and recreation, fields in which the Assembly already has many functions. However a ban on hunting, whether or not carrying associated regulatory functions, was seen by the Home Office as unequivocally a matter of criminal law. Hence the Assembly’s motion passed on 27 June 2000 calling on the UK Government to let the National Assembly decide on “the question of hunting with dogs in Wales” through provision of subordinate legislative powers fell on stony Whitehall ground.

These matters of classification are not clear cut. They fall to be decided ultimately by the UK Government but are matters on which the Assembly will wish to negotiate. Once the classification is settled, there remains the question of the precise scope and formulation of new powers – also a matter for negotiation both at official and political level.

### **Impact of the Assembly on the Parliamentary Passage of a Bill**

The House of Commons debates on the Children’s Commissioner for Wales Bill included some discussion of the representation of Assembly policy in Westminster. The second reading debate was preceded by a procedural motion disapplying from the proceedings for the Bill the proviso in para. 2 (ii) of SO 86 (nomination of Standing Committees). The effect of the proviso is that for the consideration of any public Bill relating exclusively to Wales, the Committee shall be so constituted as to include all members sitting for constituencies in Wales. The proviso was disappplied for most “Wales Bills” in recent times including the Cardiff Bay Barrage Bill 1992, Welsh Development Agency Bill 1975, Development of Rural Wales Bill (1976), Welsh Language Bill (1993) , Local Government (Wales) Bill 1994.

The purpose of the motion was two fold: first, to avoid a committee of an unwieldy size and second, to enable the committee to represent the political balance between the parties *at Westminster*. The constitution of the standing committee in the end appointed is indeed very different from the political representation of the Assembly. Of it’s 16 members 10 are from the Labour Party, 4 from the Conservative Party, 1 Plaid Cymru and 1 Liberal Democrat.

Speaking in the short debate on the procedural motion Mr Murphy stated that the position with regard to representation on Wales Bills was “uniquely different” since the inception of the Assembly. In relation to the current Bill there had been extensive procedures, giving all the political parties in Wales an opportunity to deal with the issues in the Bill.

The Bill’s provisions had been considered at length already in Cardiff by an all party

committee of the Assembly. Furthermore the Children's Commissioner for Wales was not being created by this Bill – the Commissioner was already in existence and the Bill was merely extending his role. For all of those reasons it was neither necessary nor appropriate for a specifically “Welsh” dimension to be incorporated in the Westminster proceedings<sup>58</sup>.

The UK Government has so far eschewed the adoption of a general rule for dealing with Wales only Bills in Westminster<sup>59</sup>. Mr Murphy expressed the view that it was still too early to do so<sup>60</sup>. Westminster procedure will of course remain a matter for the UK Government together with the House authorities. But decisions on these matters, which for the moment will be taken Bill by Bill, can and do affect the Assembly's ability to retain its impact on the process of turning policy into law. The Assembly will therefore need to continue to make itself heard on this issue.

### **The Assembly's Developing Role**

In the current parliamentary session the Assembly is better placed to influence the Westminster parliamentary process than it was in the previous session. The Assembly has the advantage of experience of the last session and was in existence at a formative stage of policy development in relation to many of this session's programme bills. The inclusion in the programme of the first post-devolution Wales only Bill is rightly seen as a significant achievement of the Assembly both in policy making and in influencing the UK Government's legislative plans. Other Bills (Commonhold and Leasehold, Health and Social Care, Homes, Special Educational Needs) will confer significant functions on the Assembly.

Presentational matters aside, it seems that (unsurprisingly) the Assembly fares best in its relations with Whitehall and Westminster where it has a coherent, home grown and cross-party policy which attracts at least some interest and support from other parts of the UK. The Children's Commissioner proposals “are the result of a working partnership between the House, the Government and the National Assembly” said Mr Murphy, and, within the existing devolution settlement, it is no doubt that partnership which the Assembly has to nurture in order to achieve such of its goals as require primary legislation. For, Mr Murphy went on, the proposals “would not be a matter for the Government's programme unless there were such a working relationship and partnership<sup>61</sup>.”

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<sup>58</sup> Official Report HC 16 Jan 2001

<sup>59</sup> See “Procedural Consequences of Devolution” 20 October 1999 HC 814, responding to the 4<sup>th</sup> Report of the Procedure Committee 20 May 1999 HC 185.

<sup>60</sup> Some general principles and processes for new primary legislation affecting Wales have been agreed between the Wales Office and the Assembly Cabinet – see Annex B to the Concordat between the Cabinet of the National Assembly for Wales and the Wales Office, Office of the Secretary of State for Wales, agreed on 9 January 2001. They deal with matters of communication and the practicalities of preparation of the Bill and do not touch on the procedure in the Westminster Parliament.

<sup>61</sup> Official Report HC 16 Jan 2001.

## **Concordat with the Secretary of State for Wales**

Meanwhile, a Concordat between the Assembly's Cabinet and the Office of the Secretary of State for Wales was published on the Assembly website in early January. This has an Annex detailing in outline how primary legislation affecting Wales will be dealt with at Westminster. The key paragraphs read as follows:

“ If there are clauses in Bills or entire Bills which relate only to the functions of the Assembly, Wales Office Ministers will be responsible for their passage through Parliament. If the Government is promoting these Bills or clauses at the request of the Assembly, Assembly officials will advise the Secretary of State direct on the assumption that they are acting under the authority of the First Minister, unless instructed otherwise by him, a member of the Assembly Cabinet or the Permanent Secretary of the Assembly ...

... Parliamentary counsel is unwilling to accept instructions from lawyers of the Office of the Counsel General of the Assembly. If a Bill relating entirely to Wales is being sponsored by the Secretary of State for Wales at the request of the Assembly, the Assembly will second a skeleton Bill Team to the Wales Office during the time the Bill is in preparation and before Parliament, including at least one lawyer who can draft instructions to counsel.”<sup>62</sup>

A further draft Protocol, fleshing out these provisions, is currently being negotiated between the Assembly Cabinet and the Secretary of State for Wales. Meanwhile the Cabinet Office published its own guidance on how primary legislation affecting Wales should be dealt with, emphasising the need for confidentiality to be maintained between the Assembly Cabinet and lead Whitehall departments.<sup>63</sup>

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<sup>62</sup> *Concordat between the Cabinet of the National Assembly for Wales and the Wales Office, Officer of the Secretary of State for Wales*, 9 January 2001, Assembly website

<sup>63</sup> Devolution Guidance Note 9, Cabinet Office website, February 2001

## **7. RELATIONS WITH WESTMINSTER AND WHITEHALL**

**By Mark Lang, Welsh Governance Centre; John Osmond and Nia Richardson, IWA**

### **The Steel Industry Job Losses**

In early January the steel maker Corus announced that major job losses were imminent at its Welsh and English plants. In early January it was reported that ‘senior figures’ in Westminster did not consider the job losses to be inevitable.<sup>64</sup> Economic Development Secretary Mike German announced that Assembly officials were working on a £20 million five point rescue plan to avert the losses:

- (i) Lowering business rates for Corus’ Welsh plants
- (ii) Help with training.
- (iii) Aiding research and development of new markets.
- (iv) Environmental incentives.
- (v) Buying up of Corus’ surplus land.

However, the following day it became clear that Corus was reluctant to discuss the plan with the Government. Whereupon First Minister, Rhodri Morgan, hastened to London for talks with the Prime Minister to discuss what other methods could be found to persuade Corus to talk<sup>65</sup>. Within a week of this meeting Corus finally unveiled its plans to close Ebbw Vale, and partially close Llanwern. In the immediate fall out from the announcement the Managing Director of Corus’ strip products, Nick Cragg, was quoted as saying,

“It is important to point out that there was no package put to Corus by the Government at either Welsh or UK level”.<sup>66</sup>

This claim was vigorously denied by Mike German, who said that documentary evidence existed that the Assembly had offered its package to Corus. Following the closure announcement attention turned to what would be done to deal with the job losses. A leaked memo from the Assembly Economic Affairs Director Derek Jones appeared to suggest that there would be no additional support from the Treasury, and that the Assembly would only receive money to deal with the job losses if it agreed to give up other grants that it is currently entitled to, for example those to meet the cost of repairs after recent flood damage. The memo, leaked as a result of an e-mail accidentally transmitted to Emyr Williams, a Plaid Cymru researcher in the Assembly, described the Treasury’s indifference in graphic terms:

**“Subject: RE Corus financial package**

All, I’m not attracted to the trade offs. In particular, it would seem to me to be low of the Treasury to try to take advantage of this calamity to get the Assembly to

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<sup>64</sup> Western Mail, 15 January 2001.

<sup>65</sup> Western Mail, 22 January 2001.

<sup>66</sup> Western Mail, 2 February 2001.

withdraw a position on cpj limits which is both logical and principled, and to forgo the flooding consequential. (Rather like saying “We’ll send you earthquake relief – but only on condition that .....”). I’ve had a quick read of the Chancellor’s letter to the First Minister, which also offers nothing. So I think the message is the Government is not willing to offer any help to Wales at this very bleak time. D.”<sup>67</sup>

This message was dismissed by the Treasury as not an official memo but “part of a hypothetical internal discussion.”<sup>68</sup> The Economic Development Minister Mike German also dismissed the email, in the following terms:

“This is what I call the civil service chatline. They will have their negotiations but it doesn’t reflect anything of the position of the UK Cabinet or our Cabinet in the method of support we will provide or the way we will provide it.”<sup>69</sup>

However, the former Welsh Secretary, Ron Davies AM, promptly fired off a letter to the First Minister Rhodri Morgan demanding that the correspondence with the Treasury be made public:

“The cost of compensatory measures is going to be very substantial. It is completely unacceptable to say that the burden of meeting those costs should fall on us alone in Wales ... It would be just unacceptable if the Treasury position on this matter were allowed to be obscured. The question of Objective One match-funding was surrounded by obscurantism and sleight of hand. I think that reflected poorly both on the Assembly and on us as the Labour Party. I am not prepared to allow this to happen in respect of the steel closures. It would be completely counter-productive, politically and economically, if we were not to deal with this matter openly. We cannot operate on the basis of spin and fudge.”<sup>70</sup>

Meanwhile the *Western Mail* reported that relations between some MPs and the National Assembly “hit rock bottom” over the Corus crisis:

“Barry Jones, Labour MP for Alyn and Deeside, which covers Shotton steelworks, has been named by two Assembly Cabinet sources as ridiculing the Assembly and refusing to co-operate. Assembly sources say critics such as Mr Jones fail to understand the world of politics. The existence of the Assembly provides Wales with at least a loud democratic voice and an open door to Number 10. By failing to co-operate, Mr Jones has been accused of harming Welsh efforts to build a united front to bring aid to redundant steelworkers.”<sup>71</sup>

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<sup>67</sup> The e-mail is dated 1 February 2001 and was sent from Derek Jones, Director, Economic Affairs, to Alison Jackson, Office of the Secretary of State for Wales, Steven Phillips, Head of the Finance Division, and David Pritchard, Director of the Economic Development Department. Copies were sent to: Fiona Adams-Jones, of the Permanent Secretary’s office; David Richards, Principal Finance Officer; and John Williams, Andrew Nicholas, and Pauline Sterling, of the Office of the Secretary of State for Wales.

<sup>68</sup> *Western Mail*, 3 February 2001.

<sup>69</sup> *Western Mail*, 5 February 2001.

<sup>70</sup> *Western Mail*, 7 February 2001

<sup>71</sup> *Western Mail* 3 February 2001

## **Influencing the Queen's Speech**

In his second official appearance before the National Assembly, to introduce the Queen's Speech in December, the Secretary of State for Wales Paul Murphy, insisted that the relationship between Cardiff and Westminster was working well. Close co-operation, he said, had led to the emergence of the first Wales-only Bill, to establish a Children's Commissioner, since the advent of the Assembly:

“This shows that devolution is working to deliver the primary legislation that Wales needs and enable you to implement made-for-Wales policies. It also shows that the United Kingdom Government is prepared to embrace the concept of devolution using different ways of tackling today's big issues in the United Kingdom.”<sup>72</sup>

Murphy was speaking against a background of concerns raised from a number of quarters, notably the former Welsh Secretary, Ron Davies, about the input of the Assembly into the UK Government's legislative programme.<sup>73</sup> The matter was taken up repeatedly in an extensive question-and-answer session that followed Paul Murphy's presentation. An especially incisive exchange took place between him and Plaid Cymru's Cynog Dafis:

“**Cynog Dafis:** It might be of interest to the Secretary of State for Wales that several of us listened to a masterful presentation in the Assembly last week by David Lambert<sup>74</sup>, who is an expert on legislation. He was extremely critical of the way in which primary legislation in Westminster fails to deliver for Wales' needs. That legislation is seriously inconsistent, arbitrary and difficult to understand. It fails to transfer power comprehensively and claws back power. We have seen all that happen during the last year I hope the situation will be different next year. The expert described the situation as a tragic failure to operate devolution.

Will the Secretary of State for Wales describe the discussion process between him and the First Minister in terms of making recommendations on legislation at Westminster? Can we have details of the meetings, such as when they took place, who was present, what documents were used and so on? Also, what recommendations were made and how many of them were included in the legislative programme? ... Finally, why has the draft concordat between the Secretary of State for Wales and the Assembly, or between the Secretary and the Cabinet, which we discussed about a year ago, and which could be of assistance in sorting out this mess, never been agreed? When is this likely to happen? What on earth is the reason for the failure to agree on the legislative process through a concordat?

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<sup>72</sup> *Assembly Record*, 12 December 2000

<sup>73</sup> See the previous Monitoring Report, *Coalition Politics Come to Wales*, IWA, December 2000, pages 42-3.

<sup>74</sup> Legal adviser to the Presiding Officer – his views, referred to here, are reported in some detail in the earlier section on the Assembly's Operational Review.

**Paul Murphy:** ... You are right, Cynog, to point to the protocol that we need to establish to ensure how we deal with legislation. It is late, partly deliberately. It has been prepared. I have seen several drafts and have not been satisfied with them. I wanted to ensure that we got it right. The way we have done that is by seeing how the process of the important Children's Commissioner for Wales Bill was gone through. All our experience prior to that was of Bills with Welsh clauses, as opposed to Wales-only Bills. Having now seen the process by which a Wales-only Bill goes through, we are in a better position to ensure that the protocol is published and agreed between Rhodri and myself and then the Assembly. That will happen within a few weeks, I should think.<sup>75</sup>

There are two distinct aspects to this. First, there is legislation initiated by my Government. As you, a former Member of Parliament, know, the Queen's Speech is not decided until almost the last moment. Inevitably, there are competing bids from government departments as to what should be included. All have worthwhile bids. We also have our worthwhile bids from a Welsh point of view. They face the same situation. As we go through the legislative session, we have to discuss and consult in the event of those bids for Bills being successful.

There is another aspect that is much more the Assembly's direct responsibility. That is when you want to sponsor a Bill, like the Children's Commissioner for Wales Bill, or, and perhaps more regularly, when you do not want a separate Bill but legislation that can be added on to other Bills. That would be because the matter does not require a separate Bill and can be done through the ordinary passage of legislation. In other words, we have to have Bills on the shelf ready to go. It is then the Assembly's process to work out how best to deal with those Bills. During the next months, the Assembly will be in a position to say how best the procedure works in getting legislation through.<sup>76</sup>

## **The Barnett Formula**

Denzil Davies, Labour MP for Llanelli, warned a meeting of the Welsh Grand Committee in Westminster in December, that those pressing for a review of the Barnett Formula risked opening a can of worms: "There are other people who would like us to open up the Barnett Formula and one of those is the mayor of London."<sup>77</sup> He added that London was a net contributor to the Treasury by an estimated £17 billion a year.

However, in an exchange with the Welsh Affairs Select Committee in a session held at the National Assembly at the end of October, First Minister Rhodri Morgan, said he believed Wales would be better off as a result of a review of the Formula. At the same time, he said Wales had succeeded in achieving an increase over and above what the

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<sup>75</sup> The protocol was still unpublished by March 2001. See the previous Section.

<sup>76</sup> *Assembly Record*, 12 December 2000

<sup>77</sup> *Western Mail*, 12 December 2000

Formula notionally would have allowed in the July 2000 three-year Comprehensive Spending Review:

“... if you gave me the choice between having an increase in funding which took us beyond the Barnett Formula and having it over three years from 2001 to 2004 or trying to persuade our colleagues in Scotland, England and Northern Ireland to do a review of the Barnett Formula which might take three or four years before you got any results, I would much rather have the money now thank you very much, which is what we have got. The intellectual case for a review of the Barnett Formula will always remain but the acceptance that it is very unlikely that there would be agreement in Scotland to review it also remains. So post-2004 when the present Comprehensive Spending Review, which gives us money beyond the Barnett Formula, then I would be quite happy to see whether we could get other parts of the United Kingdom government machine or set of machines if they would agree to review it. I do not think we would come out worse off; I think we would come out better off. I would rather have the money now and we have got the money now.”<sup>78</sup>

### **The Secretary of State for Wales**

On 25 January the Secretary of State for Northern Ireland, Peter Mandelson, resigned from the UK cabinet over allegations concerning the ‘Passport Affair’. With his departure a replacement had to be found and in the immediate aftermath the first name tipped by most in Westminster was the Welsh Secretary Paul Murphy. It would have been a logical choice. He had served as Mo Molam’s deputy in Northern Ireland for the first few years of the Labour Government to general acclaim by the parties involved in the peace talks. Indeed, some believed his presence was often more beneficial than Mo Molam herself. Now, having served as Welsh Secretary through difficult times, he also had vital Cabinet experience also. It was not surprising, therefore, that a good deal of speculation surrounded the apparent overlooking of Paul Murphy in favour of the Scottish Secretary Dr John Reid.

It now seems clear that initial rumours that Paul Murphy had fallen out of favour with Tony Blair, were inaccurate. Instead, the failure to appoint him seems to have been more a matter of who would replace him as Welsh Secretary. Earlier that very day the Prime Minister had met with representatives of Corus to discuss the job losses in Wales and elsewhere. Coupled with the delicate relationship between the post of Welsh Secretary and First Minister of the National Assembly, especially in the approach to the next general election, this meant that if Mr Murphy were to be replaced it would have to be by a safe pair of hands. The dilemma faced by the Prime Minister was whether such a person existed. In the event, it seems, his answer was no.

Immediately the choices would have been reduced to the Labour Party’s 37 Welsh Labour MPs, as to appoint a non Welsh MP, or even worse a Labour Peer, to the post would have

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<sup>78</sup> Evidence from the First Minister to the Welsh Affairs Committee, 30 October 2000: Minutes of Evidence published in December 2000



been politically unacceptable. When one takes from this number those who are too old or who are standing down at the next election, those whose politics are completely adverse to that of the Government, and those who are simply incapable of doing the job due to lack of experience, one is left with a small pool of choices. Each of these for various reasons was not best placed to succeed Mr Murphy. The most obvious choice would have been Peter Hain, but his involvement in Alun Michael's leadership election meant that he would not have been a popular choice in Cardiff. Alun Michael himself would have been equally, if not more, unacceptable in Cardiff.

## **Glas Cymru**

An important example of 'devolution in action' passed by largely unnoticed in the Press in January when the Assembly won a battle with Whitehall to ensure the take-over of Dwr Cymru by newly formed company Glas Cymru. In November the company announced that they had offered to take control of the Dwr Cymru water and sewerage business as a non-profit making company. Their company would be funded by selling bonds rather than selling shares.

The company immediately started to lobby parties within the Assembly realising that OFWAT (Office of Water Services) would have to involve the Assembly under section 13 of the Water Industry Act 1991. The Assembly has power under this section to direct the Director General of Water Services not to make modifications which he may propose to the conditions of a water company's appointment.<sup>79</sup>

Members of Glas Cymru gave evidence to a joint meeting of the Environment, Planning and Transport Committee and the Economic Development Committee on 15 November. Both Committees had met in the summer following the Nomura and WPD bids for Hyder. They had published a set of principles to be addressed in relation to choosing preferred bidders, principles which they used, where still relevant, in assessing Glas Cymru's bid.

Following this evidence session a joint letter from the Committee chairpersons was sent to the Minister for Environment, Sue Essex. The letter welcomed the principle of a 'not for profit' company, but highlighted issues which they felt needed more detailed consideration. In principle, however, the cross-party committees had supported the Glas Cymru bid.

Following this approval First Minister Rhodri Morgan wrote to Philip Fletcher, Director General of OFWAT. The letter was cautious in its welcome to the bid due to the Assembly's limited legal involvement in the matter. However, the letter clearly stated the Assembly's support for the take-over.

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<sup>79</sup> EPT committee paper 15 November 2000

Nevertheless, the proposal faced opposition in three government departments in London: the Treasury, the Department for Trade and Industry, and the Department for the Environment, Transport and the Regions. There were three main reasons:

- The commitment of the Treasury and the DTI to the equity model
- Concern about the spread of the bond-financed model within the water and electricity industries.
- The potential political embarrassment of accepting the bond model for Glas, while rejecting it for the London Underground, Air Traffic Control, Railtrack etc.

The Government's reservations about the proposal were made evident in a press statement released on 31<sup>st</sup> January, the same day as the publication of Ofwat's permission for Glas to proceed. In it Michael Meacher, Minister for the Environment, pointedly listed the Government's concerns.

These included worries that:

- Splitting asset ownership from operations management would lead to problems in managing the business safely - to the detriment of customers and the environment
- There would be sufficient incentives for managers in a non-profit making company to improve efficiency, because of the absence of shareholder pressure
- The extent to which financial risk would be transferred to customers<sup>80</sup>

These concerns had been passed on to OFWAT in relation to the Glas Cymru proposal. The Government's hostility to the idea was again evident in the Press Release when the Minister made it clear that the Government did not intend to encourage adoption of this model in other parts of the country:

“If further non-profit company models were proposed, the Government would additionally be looking at the incentives for efficiency. Though it is possible to point to shortcomings in the equity model, it has delivered very considerable efficiency gains across the industry over the past 10 years. There is every prospect that it will continue to do so.”<sup>81</sup>

Despite this veiled opposition from Whitehall, OFWAT approved Glas Cymru's proposal at the end of January. It is here that the role of the Assembly becomes clear. In a situation where London ministers opposed what was *prima facie* an economically sound and viable scheme, the decision came down to relative political pressure. The Assembly's all-party support for the proposal, together with the support of Welsh Secretary Paul Murphy, made it practically impossible for the London ministers to oppose the bid. Recognition of this was included in Michael Meacher's Press Release:

“Proposed water industry restructuring raises a wide number of issues for customers, the regulators and Government. It is for OFWAT to reach an

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<sup>80</sup> News release, DETR, 31 January 2001

<sup>81</sup> *Ibid.*

independent view on the regulatory issues raised. In the case of the Glas Cymru proposals, democratic accountability of course rests with the National Assembly for Wales.”<sup>82</sup>

There has been a tendency to interpret the Glas Cymru proposal in the light of people's own political preferences. Some politicians, have called it the 'next best thing to nationalisation', other have stressed its continuing private sector character. A few have called it a 'third-way solution'. But all parties have welcomed the prospect of greater control over Welsh Water resources.

The relevance of the control issue was seen in the very week of the Ofwat decision, when the Western Mail reported on plans by Severn Trent Water to increase hugely the size of the Graig Goch dam in the Elan Valley, in order to secure supplied in the face of the effects of global warming.<sup>83</sup>

Although Wales is divided between a Welsh Water licence area and a Severn Trent licence area, the commercial and 'political' interaction of the two areas of interest may be quite different when the Welsh Water license is held by a company more obviously beholden to the Welsh public interest.

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<sup>82</sup> Ibid.

<sup>83</sup> The Western Mail 30 January 2001

## **8. RELATIONS WITH THE EUROPEAN UNION**

**By Mark Lang, Welsh Governance Centre**

### **The European Affairs Committee**

In January the Assembly's European Affairs Committee met to discuss concerns that had arisen over the purpose and role of the Committee. Several failings had been aired prior to the meeting that appeared to cast doubt on the effectiveness of its operation.<sup>84</sup> In particular it was considered that the Committee had not assumed a supervisory role vis-à-vis the other Subject Committees in relation to European issues. This factor, when combined with the fact that members of the Committee had not been sitting as representatives of their respective Subject Committees, meant that the opportunity for it to act as a co-ordinator of European issues concerning the Assembly had been missed. It was also suggested that inevitably there will be occasions when the priorities of the different Subject Committees conflict over European issues, for example on environment and economic development. The result might be to inhibit the Assembly speaking with a united voice on European issues.

During the meeting the following issues were raised<sup>85</sup>:

1. Members were concerned that the ability of the Committee to scrutinise the Assembly Cabinet was reduced when the Committee was itself chaired by the First Minister.
2. It was recognised that the tracking and filtering of EU legislation had to be a job for the Assembly officials and not the Committee, due to the workload involved. However, it was recognised that the Committee may well have a role in ensuring that the Assembly's scrutiny mechanisms were operating effectively.
3. The Committee felt it should have a role in cross-cutting issues such as sustainable development and social exclusion when these had a European dimension.
4. It was suggested that although Subject Committees should ideally set aside regular slots in their forward work programmes, in practice this would prove impractical, since their agendas were already overloaded. Other means may well need to be sought to raise Assembly Members awareness of European issues.
5. There was a need to develop the Committee so that it became more pro-active, with more regular meetings to maintain a momentum.
6. The Committee would need to prioritise its agenda and give more direction to officials.
7. It was recognised that moving meetings of the Committee to Fridays would enable the attendance of MEPs who would be able to provide a valuable contribution.

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<sup>84</sup> Sir John Gray, Welsh Europeans in Whitehall and Brussels, Agenda Winter 2001/1, IWA.

<sup>85</sup> Minutes of the European Affairs Committee, National Assembly for Wales, 31<sup>st</sup> January 2001.

The Committee adjourned with the Chair, the First Minister, instructing officials to prepare a further paper on the feasibility of members concerns and proposals.

### **Visits to Brussels<sup>86</sup>**

Jane Hutt, the Minister for Health and Social Services, became the first Assembly Minister to attend a Health Council of the Council of Ministers on 14 December. She contributed on behalf of the UK to a discussion on Nutrition as an aspect of health policy.

Mike German, as Economic Development Minister, visited Brussels during early December to examine first hand the scope for improved incentives for Welsh businesses in Wales' Objective 1 area. Sue Essex the Minister for the Environment, visited Brussels towards the end of the month for meetings with officials at the Commission and the Wales European Centre on environment and transport issues. Andrew Davies, the Minister for Assembly Business and E-Commerce also visited Brussels during the month to meet senior Commission officials to discuss E Europe.

John Griffiths the Labour AM for Newport East attended a meeting of the Committee of the Regions in December, and in January Elin Jones, the Plaid Cymru AM for Ceredigion, attended an Agriculture Commission of the Committee of the Regions.

### **Influencing European Union Policies<sup>87</sup>**

Work on highlighting the awareness and importance of EU policy issues across the Assembly is continuing. Following meetings between the European Affairs Division, Group Directors and Heads of Division during the Autumn, a rolling programme of seminars and presentations is taking place during 2001. A seminar for officials with an EU policy aspect to their work, potential secondees to EU institutions and anyone with a general interest in Europe was held at the end of November. Future seminars will include speakers from EU institutions and other Government Departments. The programme will include a training seminar on European Directives, Designation Orders and Statutory Instruments.

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<sup>86</sup> Chair's Report to the Committee of European Affairs, 31 January 2001.

<sup>87</sup> *Ibid.*

## **9. RELATIONS WITH LOCAL GOVERNMENT**

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

### **Local Government / Assembly Politics**

The Labour-Liberal Democrat coalition in Cardiff Bay prompted new tensions between the Assembly and Local Government as Labour led local authorities faced up to the reality of a Welsh Government with two Liberal-Democrat Ministers. Early in the new year Russell Goodway, Lord Mayor of Cardiff accused the two Liberal Democrat Ministers, Jenny Randerson, Minister for Culture and Mike German, the Economic Development Minister of dragging their feet in their efforts to secure the FA Cup final for the Millennium Stadium. He pointedly omitted the Labour Finance Minister, Edwina Hart, from criticism although she was leading the negotiating team.<sup>88</sup> The success of the Welsh bid was confirmed in early January 2001 yet it was not long before another row blew up. This time it was the Culture Minister Jenny Randerson who accused Cardiff County Council of delay in putting forward proposals for Cardiff's bid to be European City of Culture in 2008. She in turn was criticised by the Conservative group in the Assembly who claimed that the,

'fraught political relationship' between the Lord Mayor and the Culture Minister had 'hindered the bid's progress.'<sup>89</sup>

It is difficult to escape the conclusion that these high profile spats had a significant element of Cardiff politics writ large: Jenny Randerson had been a long standing Cardiff Councillor and had taken the Westminster-held Labour seat of Cardiff Central in the Assembly elections. Consequently, it might be assumed that Local Government-Assembly politics elsewhere in Wales might be less 'fraught'. On the other hand, with 2001 being an election year and the Labour Government entering into election mode as the year dawned it might be expected that the cut and thrust of the campaign will impact on local policies and on local government's relations with the coalition Welsh Government.

At Labour's February conference the First Minister, Rhodri Morgan acknowledged the existence of what he called "creative tension" as the two tiers worked out where one's remit started and the other's finished and saw a need for stability after the upheaval of local government reorganisation and the introduction of the modernisation agenda. The First Minister also indicated that he favoured separating the next local authority elections from those for the Assembly, which are both currently scheduled to be held on the first Thursday of May 2003.<sup>90</sup> It can be argued that separate campaigns would ensure greater transparency and accountability for both levels of government.

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<sup>88</sup> [Western Mail, 30 December 2000](#)

<sup>89</sup> [Western Mail, 7 February 2001](#)

<sup>90</sup> [Western Mail, 19 February 2001](#)

## **Revenue Settlement 2001-2**

The provisional local government revenue settlement was announced in December, and individual local authorities informed of their indicative allocations. Statutory consultation of local government ended on 22 January. The settlement delivered an overall increase of 8.5 per cent, reflecting a 5.9 per cent increase in revenue budgets. Three councils received transitional funds, Merthyr Tydfil, Monmouthshire and Blaenau Gwent, to ensure that no local authority need increase its council tax by more than 9 per cent. The settlement was significant because it appeared to herald an end to talk of hypothecation. The Minister for Finance, Communities and Local Government, Edwina Hart stated:

“My role is not to tell councils or police authorities what they must do with their money: I am paving the way for them to take these decisions for themselves by providing appropriate support from the Assembly for this to happen. This is what partnership is all about ... I want to make it absolutely clear that revenue settlement resources are not earmarked by the Assembly for any particular purpose; local authorities are best placed to gauge what local council tax payers are able to pay and to determine spending priorities.”<sup>91</sup>

The Welsh Local Government Association welcomed the fact that 'ring fencing within the revenue settlement has come to an end' and that it was a reflection of the

“ ... mature relationship that has developed between local government and the Assembly.”<sup>92</sup>

They were less happy, however, that some Ministers had written to their local government partners to give an idea of the Assembly's expectations on increased expenditure from the general settlement on specific services. The Plaid Cymru spokesperson on local government, Janet Ryder, stated that

“ ... the effect on local authorities was profound, with many of them feeling that they had been told, once again, how to allocate their budgets. It seemed to them to be yet another form of hypothecation.”<sup>93</sup>

Edwina Hart said:

“My position is that until policy agreements are proven as an adequate mechanism for the Assembly Cabinet to use in gauging local government activity on specific policy priorities, we will continue to set out our expectations in terms of expenditure where we believe this is a helpful thing to do.”<sup>94</sup>

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<sup>91</sup> [Assembly Press Release, 30 January 2001](#)

<sup>92</sup> [Welsh Local Government Association, Press Release, 30 January 2001](#)

<sup>93</sup> [Assembly Record, 6 February 2001](#)

<sup>94</sup> [Minister's Report to the Local Government and Housing Committee, Committee Minutes, 24 January 2001](#)

News reports (BBC TV) suggested that a 'row' was brewing in the Assembly about the settlement and consequent increases in the rate of the council tax in individual authorities, particularly in the light of the commitment in the Partnership Agreement to

“... contain council tax increases to within an average increase of 3 per cent in the coming financial year, within the context of the ongoing review of local government funding.”<sup>95</sup>

Edwina Hart said that this section of the Partnership Agreement had been “much misrepresented” and that it was recognised that,

“... implementing the new formula would result in different increases in different local authorities.”<sup>96</sup>

The consultation on the local government finance system, *Simplifying the System* ended on 31 December. A detailed summary and analysis of responses was due to be considered by the Local Government and Housing Committee on 28 February.

### **Schools Funding**

In December a debate arose about education funding prompted by an article by Professor David Reynolds in the IWA Journal *Agenda* which compared Welsh education funding unfavourably with that in England. The article prompted the following editorial comment from the Western Mail:

“Recent spending announcements from the National Assembly do nothing to eliminate the discrepancy. Indeed there are arguments that the education funding gap will increase over the next few years rather than decrease...the scale of the Welsh underspend is so serious as to prompt real fears that Welsh schools can achieve the targets set for them, in both primary and secondary education.”<sup>97</sup>

Attention was also drawn to the lack of parity between what one Local Education Authority in Wales spends and another. The Teaching Unions offered support for the analysis and the notion of a National Funding Formula was floated. The Education Minister, Jane Davidson countered the argument about the discrepancy with England by arguing that the analysis failed to take into account the impact of London on the English figures. A spokesperson said:

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<sup>95</sup> [Partnership Agreement between Labour and Liberal Democrats, Putting Wales First, para.7.7, October 2000](#)

<sup>96</sup> [Assembly Record, 6 February 2001](#)

<sup>97</sup> [Western Mail, 1 December 2000](#)



“What is being forgotten is that these figures include London which has extra weighting for all aspects, including teachers salaries. If you remove London from the equation then Wales spends an average of £2,660 per pupil while England spends £2,630, so we are one per cent above.”<sup>98</sup>

However, the issue of parity between Local Education Authorities and the idea of a National Funding Formula again raised the issue of hypothecation. The Administration’s position was made clear in the minutes of the mid December meeting of the Cabinet:

“The First Minister said that a comparison had been made during the North Wales Regional Committee meeting on education expenditure between Flintshire and Cheshire. This related to the way in which school funding was delivered in Wales compared with England. The Minister for Education and Lifelong Learning said that funding in Wales was delivered to schools via local authorities rather than direct to schools as was the case in England. It needed to be emphasised that the Assembly funding process differed from England because the Assembly believed in providing local government with the freedom and responsibility for funding their own schools, and in the principle of non-hypothecation. The Assembly was providing the necessary funding for education, and it was therefore up to local authorities to deliver and respond on any variations in spending per head, if challenged.”<sup>99</sup>

### **The 'Fourth Option'**

One of the commitments included in the Partnership Agreement in October 2000 was to implement the new primary legislative framework established by the Local Government Act 2000.<sup>100</sup> Within a programme of secondary legislation and statutory guidance (an ‘Assembly Local Government Bill’), councils will be:

- Required to meet in the open under the terms of the Local Government (Access to Information) Act;
- Given the opportunity to form area committees with delegated powers and budgets; and
- Offered a fourth option of adopting a modernised committee structure with enhanced scrutiny powers in place of the Cabinet system.<sup>101</sup>

At the October 2000 meeting of the Assembly’s Partnership Council with Local Government, Sir Harry Jones, leader of Welsh Local Government Association said he believed that the Partnership Agreement

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<sup>98</sup> *Ibid.*

<sup>99</sup> [Cabinet Minutes, 11 December 2000, Assembly website.](#)

<sup>100</sup> [See \*Coalition Politics Come to Wales: Monitoring the National Assembly for Wales September - December 2000\*, IWA, December 2000](#)

<sup>101</sup> [Partnership Agreement, paras.7.3,7.4](#)

“ ... would throw local government into confusion: in particular, the requirement that council cabinets meet in the open, the fourth option on structures and proportional representation’.<sup>102</sup>

Local Government leaders stressed that they had worked hard to sell the modernisation agenda to reluctant colleagues and that changing the rules at the eleventh hour was very unsettling.

However, at the December 2000 Partnership Council a paper outlining the details of the so called 'fourth option' was tabled. Under this option an authority would not have to operate an 'executive' but would still have to have scrutiny committees and a committee structure efficient, transparent and accountable in line with the principles of the Act. This alternative arrangement would not mean that local authorities could maintain existing committee structures or methods of working. The fourth option would have to demonstrate streamlining of committees and clear delegation of responsibilities for decision making. The paper appeared to take on board the reservations voiced by members at the October Partnership Council:

“It is also important to stress that the introduction of the fourth option does not in any way invalidate the work which most authorities have done already on executive arrangements. The National Assembly envisages that most authorities in Wales will want to proceed to introduce executive arrangements as they have been planning to do. They will have the National Assembly's full support in doing so. A small number of authorities do, however, have problems in matching their local circumstances to the detailed definitions of executive arrangements set out in the Act. The fourth option is seen primarily as being of interest to them, although as a matter of equity it will be made available to all authorities.”<sup>103</sup>

The key features of the ‘fourth option’ are:

- The full Council would retain the role of agreeing the constitution, including the scheme of delegations. The scheme of delegations would need to make it clear that the full council was responsible for debating and agreeing the overall policy and financial framework within which all decisions should be taken, including approval of the budget and the adoption of strategic plans.
- Within this framework, the remaining functions of the Council (other than development control and licensing functions and any other quasi judicial functions) would be delegated to a Committee of the Council (Board) which, in common with all committees of the Council to be created under the fourth option (other than Area Committees) would not be exempted from the political balance requirements. It would have a maximum of ten members or 20% of the Council (whichever is greater).
- The Board of the Council would be able to delegate to individual Board members, sub-committees of its members or Area Committees. The scheme of delegations,

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<sup>102</sup> [Partnership Council Minutes, 16 October 2000, para.21](#)

<sup>103</sup> [Partnership Council, Paper, 11 December 2000](#)

including financial or other limits on delegated authority, would need to be approved by the full Council.

- The Council's constitution shall also provide for the delegation of development control, either to a Planning Committee or alternatively to Area Committees. In any event the Council's constitution shall provide that the Board shall have power to direct that any such delegated decision shall be referred to a meeting of the full Council for decision. The Council's other quasi-judicial functions such as licensing shall similarly be delegated, either to the Planning Committee or to a single, separate committee. The Council would also be required to have a Standards Committee in accordance the Local Government Act 2000.
- The Council's constitution would require a Scrutiny Committee (Principal Scrutiny Committee) of which no member of the Board may be a member. Where there is more than one recognised party group on the Council, the chair of the Principal Scrutiny Committee shall not be a member of the same party group as the chair of the Board.
- The Council's constitution shall create not fewer than three or more than six further scrutiny committees (Subject Committees) of each of which up to three Board members may be members (but may not be the Chair).
- All Board and committee decisions would take place in public with full public access to relevant papers.

In January 2001 the Minister for Finance, Local Government and Communities reported that the consultation exercise on the Fourth Option for alternative political structures had begun, together with revised proposals on Access to Information and the encouragement of Area Committees. The consultation on the Welsh provisions for the Local Government Act was due to end on 28 February.

## 10. PUBLIC ATTITUDES

By Denis Balsom, Welsh Governance Centre

The coalition administration, under Rhodri Morgan, has controlled the National Assembly for Wales since October. Whilst the creation of the partnership with the Liberal Democrats may have achieved political stability, a turbulent tide of events has continued to rock politics in Wales. The toll of jobs in manufacturing industry has grown steadily, highlighted by those in Corus, but proportionately as significant in the automotive sector in west Wales and in rural Powys. A blatantly frank assessment of in-migration and the property market in parts of Gwynedd by a senior Plaid Cymru County Councillor heightened social tensions and was further compounded by an inept attempt at clarification by party leader, Ieuan Wyn Jones, on BBC's prime network programme *Question Time*.<sup>104</sup> The furore which followed, gleefully whipped-up by Labour and faithfully reported in the *Welsh Mirror*, raised questions of confidence in the new leader of Plaid Cymru, as well as the moral validity of the original viewpoint. The travails of Plaid Cymru were only displaced from the headlines by the outbreak of foot and mouth disease. Played out against a backdrop of constant speculation as to the date of the general election, any one of these 'events', endorsing the old Macmillan dictum, could have a critical impact on the outcome of the election when it is finally called.

The latest poll in the tracking series commissioned by HTV Wales however, shows, to date, remarkably little impact from these potentially catastrophic events.<sup>105</sup> The poll was taken too early for the public to be aware of the impact of foot and mouth, but support for Labour appears unaffected by the continuing loss of manufacturing jobs. Equally, the potential embarrassment caused to Plaid Cymru by Councillor Simon Glyn's over-zealous defence of his community has not substantially diminished support. Asked who they would support at a general election for Westminster, 52 per cent of those intending to vote said they would support the Labour Party. This is up 7 per cent since the last poll taken at the end of October. Whilst the general air of electoral anticipation has increased significantly since Christmas, it remains remarkable that potential support for Tony Blair in Wales remains close to that achieved in the landslide election victory of 1997. Support for the Conservative Party, which had been restored to something approaching its normal historic levels in recent polls, has slipped 3 per cent but is still up on 1997 and if repeated in a forthcoming election should redress the current absence of Conservative representation from Wales in the House of Commons.

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<sup>104</sup> See Press and Media Section for a detailed account

<sup>105</sup> NOP interviewed a representative sample of 1003, by telephone, for HTV Wales between 21 – 26 February 2001.

**Table 2**  
**How would you vote if a general election for Westminster were held tomorrow?**

	NOW	Oct 2000	July 2000	May 2000	Mar 2000	Jan 2000	General Election 1997
Conservative	22%	25%	25%	23%	20%	21%	20%
Labour	52%	45%	51%	47%	50%	56%	55%
Lib Dem	10%	13%	9%	12%	12%	8%	12%
Plaid Cymru	14%	15%	13%	15%	16%	13%	10%
Other party	2%	2%	2%	2%	2%	3%	3%
Would not vote	(7)	(12)	(14)	(11)	(11)	(10)	
Undecided	(24)	(23)	(21)	(23)	(25)	(23)	
Refused to say	(8)	(1)	(2)	(2)	(1)	(3)	

Plaid Cymru support has slipped from its high-point of 16 per cent reported in the poll last March, but at 14 per cent is still significantly higher than that of the last general election. The latest poll appears to confirm previous assessments that the new status of Plaid Cymru as the official opposition in the National Assembly has also boosted the potential standing of the party for Westminster elections. Whilst it is difficult to point to specific seats that Plaid Cymru might win at a general election, an increase of 4 per cent in their share of the vote would substantially alter the nature of many individual constituency contests in Wales. There appears to have been further slippage in support for the Liberal Democrats and the party's electoral strategy will undoubtedly concentrate upon holding their current seats in Powys, before looking for strategic gains or tactical voting opportunities elsewhere.

A similar pattern of gains for the Labour Party is also found in the survey responses from Welsh voters to the question on how they would vote in an election for the National Assembly for Wales. Although Assembly elections will not be held until May 2003, the imminence of the general election is undoubtedly impacting the behaviour of all politicians and parties, as well as the collective psyche of the public. Whilst it can be argued that Assembly politicians should resist the temptation to campaign for their party colleagues competing for seats at Westminster, there is little evidence that a traditional sense of blind party loyalty has been adjusted to accommodate the new devolved politics in Wales. If it is not the widespread expectation of the general election that has bolstered Labour's position, the poll findings for Assembly voting intention are a remarkable endorsement of Rhodri Morgan's decision to form the coalition. Not only have Labour restored their support to a level which might conceivably secure a majority, if repeated in 2003, support for the Liberal Democrats has dropped by 25 per cent.

**Table 3**  
**How would you vote if an election for the National Assembly for Wales were held tomorrow?**

	NOW	Oct 2000	July 2000	May 2000	March 2000	Jan 2000	Assembly Election 1999
Conservative	16%	16%	15%	14%	14%	13%	16%
Labour	44%	39%	40%	41%	43%	45%	37%
Lib Dem	9%	12%	8%	10%	10%	6%	13%
Plaid Cymru	29%	30%	34%	32%	31%	33%	30%
Other party	2%	4%	3%	3%	2%	3%	5%
Would not vote	(15)	(20)	(19)	(16)	(19)	(17)	
Undecided	(25)	(21)	(21)	(21)	(21)	(22)	
Refused to say	(5)	(1)	(1)	(1)	(1)	(2)	

Further polls taken in the run up to the Westminster general election should be able to confirm whether or not reported Assembly voting intention is being ‘contaminated’ by the present heightened political consciousness. The disparity in the intended support for Plaid Cymru at the two different levels of election however, suggests that some of the public, at least, make a clear distinction in their proposed political behaviour.

For many observers however, the key determinant of the next general election is likely to be the level of participation and electoral turn-out. Recent elections to the European Parliament, in London for the Mayoralty, in Wales and Scotland for the new devolved institutions, have seen levels of turn-out sink to new depths. In Wales, many in the Labour Party would seek to explain their poor performance in the Assembly elections to voter apathy and disinterest. Whilst opinion polls are not necessarily good predictors of electoral participation, it should be noted that the HTV Wales survey found that only 67 per cent of those asked were certain or very likely to vote at the next general election.<sup>106</sup> If repeated at the election proper, this would be drop of 7 per cent, compared with 1997, and suggest that the overall level of turn-out for the UK as a whole may slip to 65 per cent - the lowest in living memory. The incentive to vote, or the inclination to abstain, is not distributed evenly between the parties or throughout the electorate. In the coming campaign as much effort will go into mobilizing the vote as to winning the argument.

<sup>106</sup> Only 43 per cent were certain to vote.

## **11. THE POLITICAL PARTIES**

**By John Osmond, IWA**

The run-up to the general election, expected in April or May, is a timely moment to assess the impact of devolution on the political parties in Wales and what electoral inter-action might be expected between the new multi-level tiers of governance in Westminster and Wales. There is no doubt that devolution has had a substantial impact on the character and strategies of all the political parties in Wales. What is less clear is the extent to which this will impact on the results of the forthcoming general election.

### **Plaid Cymru**

The coming of the National Assembly has radically changed the character of Plaid Cymru. For the first time it has a relatively large and cohesive group of full-time, professional politicians within its ranks, the 17 elected Members in the Assembly together with their support staff. These have altered the balance of forces with the party's traditional structure. At the same time the party's focus of attention has shifted decisively from Westminster to Cardiff Bay. For the first time in its history, too, the party has a sense that it could be a party of government. These changes have created new problems of communication and increased the potential for divisions between the leadership and the wider membership, not least over the party's objectives and how they are articulated.

As would be expected Plaid Cymru is further ahead of the other parties in developing its thinking around constitutional change. This is partly because Welsh autonomy is its *raison d'être*, but also because lack of clarity around its constitutional objectives became an issue during the first election campaign for the Assembly in 1999. In the run-up to the forthcoming general election an internal debate generated by the new leadership under Ieuan Wyn Jones is attempting to define more clearly the party's aims. As a first step it wants to achieve parity with the Scottish Parliament, with full legislative powers and some tax varying powers. This, it says, will involve a reduction in Welsh MPs at Westminster and a corresponding increase in Assembly members in Cardiff. According to a recent policy statement, developments beyond this depend to a large extent on what happens elsewhere, in particular whether England begins to evolve regional government and what progress is made with European integration and enlargement.<sup>107</sup> The document paints two scenarios: a democratic, federal Europe of the Regions with a greatly empowered European Parliament and a written constitution within which Wales could find a role; or, failing that, full national status for Wales as a member-state within a confederal European Union.

However, such options are sketched out only in broad conceptual terms with little detailed or tactical sense of what the party's preference would be, and how it might influence the course of events in that direction. In part this is because the document fails

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<sup>107</sup> *Towards Full National Status: Stages on the Journey*, Plaid Cymru, December 2000.

to confront an underlying internal debate that is taking place about what kind of party Plaid Cymru should be: that is to say, one that regards itself as essentially a Regionalist Movement operating within a British/European framework, or what might be regarded as a more conventional autonomist party seeking independence.

### **Welsh Labour Party**

The onset of devolution has also had a profound impact on the Welsh Labour Party. In the first place it has changed its name to the Welsh Labour Party, from Labour Party Wales (previously the Labour Party in Wales). This registered an important emblematic and tonal change. There is a recognition by all the parties, but especially Labour, that identifying with the national dimension can bring political rewards in post-devolution Wales. There is now a recognisable nationalist, with a small n, wing within the Labour Group in the Assembly that is currently in the ascendant under Rhodri Morgan's leadership. To a large extent this Group is defining itself against the policy profile being developed by the Labour Party at Westminster, as set out in successive Queen's Speeches<sup>108</sup>. As yet however, the Group has not defined a clear developmental path ahead. This is because to do so would open up an unwanted debate, not just within the Assembly Group itself, but more importantly with forces outside – especially within the Welsh Labour Executive, within the Westminster Parliamentary Party, and elements within local authority Labour Groups.

Events will force a debate, however. These include the likely results of the forthcoming general election, when the party is likely to lose some ground to Plaid Cymru and the commitment the party has made in the Partnership Agreement with the Liberal Democrats to establish an independent Commission to examine the Assembly's powers. Rhodri Morgan has pointed to the coincidence in timing of the appearance of the Commission's report, in late 2003, with the forthcoming EU Intergovernmental Conference shortly afterwards, in 2004, as being significant<sup>109</sup>.

### **Welsh Liberal Democrats**

The outcome of the devolution process for Welsh Liberal Democrats hangs almost entirely on the progress of the Coalition within the Assembly. They will be judged on the extent to which they are seen to influence policy development, and also on the electoral consequences. The party may lose ground in the forthcoming General Election in Wales, and potentially even more in the May 2003 Assembly elections. In this eventuality the

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<sup>108</sup> See John Osmond, *A Constitutional Convention By Other Means: the First year of the National Assembly for Wales*, in Robert Hazell (Ed.) *The State and the Nations: the First Year of Devolution in the United Kingdom*, Constitution Unit/Imprint Academic, December 2000.

<sup>109</sup> *Assembly Record*, 19 December 2000. Rhodri Morgan also emphasised the point in a speech to Political Studies Association Devolution Conference, Cardiff, January 2001.



party would be presented with an acute identity crisis. Furthermore, its constitutional objective of achieving a federation within the UK creates an inherently weak position, on two counts. First, although Britain may be moving in a quasi-federal direction, given the nature of the British State devolution is always likely to be asymmetrical. Secondly, both in terms of participating in the Coalition and in its constitutional objectives, the party leadership tend to be out of line with its core support.

### **Welsh Conservative Party**

Paradoxically, in electoral terms the Conservatives have benefited most from devolution, achieving significant representation in the Assembly through the operation of the regional list proportional system. There is also a determination on the part of the leadership to identify more with Welsh concerns and develop distinctive Welsh policies. A Conservative-leaning policy think-tank is due to be launched in Wales during 2001. The party's identity as an Opposition party in the Assembly has also been strengthened by the formation of a majority government. What all this may imply for the party's constitutional thinking is unclear. However, one of its leading figures has speculated recently on the implications for Wales of calls in the party elsewhere for strengthening the English voice in the House of Commons: "If the English Parliament lobby succeed, Welsh Conservatives must recognise that there will be profound implications, in which the powers of the Welsh Assembly would have to be revisited."<sup>110</sup>

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<sup>110</sup> Jonathan Evans MEP, *The Future of Welsh Conservatism*, Institute of Welsh Affairs, 2001 – forthcoming.

## 12. THE PRESS AND THE MEDIA

By Nia Richardson, IWA

Plaid Cymru was subjected to intense harmful media coverage during late January and February following an interview held between a Plaid Cymru Gwynedd Councillor, Simon Glyn, and Sarah Dickens on BBC Radio Wales. Interviewed, Simon Glyn, who chairs Gwynedd County Council's Housing Committee, referred to threats posed by inward migration from England in the following terms:

“We are faced with a situation now where we are getting a tidal waves of migration into our rural areas from England, and these people are coming here to live, to establish themselves here, and to influence our communities and our culture with their own.”

“Between 90 per cent and 100 per cent of all homes being put on the market are sold to outsiders.”

“Once you have more than 50 per cent of anybody living in a community that speaks a foreign language, then you lose your indigenous tongue almost immediately.”

“In my opinion, it is no use to the community to have retired people from England coming down here to live and being a drain on our resources.”<sup>111</sup>

These comments were picked up, and to a great extent distorted, by the Press some days later. The Welsh Mirror led the pack with a front-page splash. Glyn's photo was flanked by a headline: *Voice of Hate 'Racist' Plaid councillor's attack on the English*. The paper reported Glyn's comments with the following bullet points:

- English residents in Wales should be monitored and forced to learn Welsh.
- English pensioners who retired to Wales are a burden on the Welsh taxpayer.
- English is a foreign language in Wales.
- And the English are killing his community, language and way of life.<sup>112</sup>

Immediately below this 'summary' of Glyn's comments, Don Touhig, Labour MP for Islwyn, was quoted, “These disturbing comments reveal the dark underbelly of Welsh nationalism.”<sup>113</sup> This set the tone for a generalised attack on Plaid Cymru in the following weeks. Culture Minister Jenny Randerson (LibDem) stated that Glyn's remarks were

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<sup>111</sup> Radio Wales, *Sarah Dickens Show* (morning discussion programme), 15 January 2001 / BBC Wales website

<sup>112</sup> Daily Mirror 18 January 2001

<sup>113</sup> *Ibid.*

“... amazing, shocking, and totally beyond the pale of civilised political comment.”<sup>114</sup>

Alun Pugh, Labour’s AM for Clwyd West, declared:

“When members of Plaid Cymru in positions of authority start talking about the English threatening our way of life and English pensioners being a burden on Welsh society we need to be clear about what this is. It is racism, racism pure and simple.”<sup>115</sup>

Simon Glyn's comments continued to attract attention a month after they were made with the *Mirror* portraying a prevailing “war of words between Labour and Plaid Cymru”.<sup>116</sup> The paper exposed how bickering over the matter was reaching the highest ranks in both parties. David Hanson, Labour MP for Delyn and a Minister in the Welsh Office accused Plaid of “harbouring a large number of racists.”<sup>117</sup> On the other hand Plaid Cymru MP Elfyn Llwyd refrained from denouncing Councillor's Glyn's comments by accusing Labour of pre-election political spin. He hit back at Mr Hanson's comments by stating that they were “electioneering of the most despicable kind”.<sup>118</sup>

However, efforts to deflect media attention from Simon' Glyn's comments and on to Labour spin failed. Plaid's inability to deal with the matter became clear when BBC Television's *Question Time* came to Caernarfon on the 15 February. During the programme Plaid Cymru leader Ieuan Wyn Jones came under pressure from Glenys Kinnock, a Labour Member of the European Parliament. She challenged him to expel Simon Glyn from Plaid Cymru and to state whether he disapproved of his comments or not. Ieuan Wyn Jones refused to denounce Simon Glyn's comments. Furthermore he denied that Simon Glyn had said some of the comments, claiming that ‘Labour spin’ was misquoting the official transcript. This backfired when David Dimbleby, *Question Time*'s presenter, held up a BBC transcript of Simon Glyn's comments for him to read.

The *Western Mail* was in no doubt as to who had won the battle on the programme, leading with the headline, 'Labour hails Mrs. Kinnock's TV 'triumph' over Jones'<sup>119</sup>. The paper blasted Ieuan Wyn Jones' performance which, it said,

“... has brought serious questions about his leadership and whether unfavourable comparisons with Dafydd Wigley's statesman-like leadership will cost Plaid at the General Election. He allowed fellow panel member, Labour MEP Glenys Kinnock, to get under his skin on a question which a schoolchild could have written the script for a month ago. The result was that Mr. Jones emerged as defensive, weak, humourless and humiliated.”<sup>120</sup>

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<sup>114</sup> The *Western Mail* 26 January 2001

<sup>115</sup> *Ibid.*

<sup>116</sup> The *Western Mail* 16 February 2001

<sup>117</sup> *Ibid.*

<sup>118</sup> *Ibid.*

<sup>119</sup> The *Western Mail* 17 February 2001

<sup>120</sup> *Ibid.*

Following Ieuan Wyn Jones' embarrassment on *Question Time* Plaid Cymru made it a condition that their leader should know exactly what Simon Glyn had said before being interviewed on *Week in Week out* on BBC Wales<sup>121</sup>. However, this did not dramatically improve the leader's performance. He avoided responding directly to the questions posed to him by constantly reverting to and quoting from his own Press Release on the matter and the transcript of the radio programme.

Ieuan Wyn Jones again refused to denounce Simon Glyn's comments on the grounds that the Councillor had given a full apology. However, this again backfired when Simon Glyn admitted on the programme to feeling that his apology had been misrepresented. Whilst the Councillor said that he apologised for anyone who felt that his remarks had been offensive he did not regret what he had said:

“For standing up for my own community, my own language, my own way of life, everything that is dear to me, everything that I've known, I make no apology for doing that.”<sup>122</sup>

Thus, it seemed that the Councillor had not apologised fully for his words and the Plaid Cymru leader's reputation had once again been damaged. It is difficult to see how this will not have done some harm to Plaid Cymru's election hopes in some areas.

While Ieuan Wyn Jones was having a rough ride with the media, on the face of it Rhodri Morgan was on better terms. To mark the first anniversary of his tenure as First Minister he invited journalists to a specially convened conference on 14 February. Described as 'relaxed' by the *Western Mail*, he led journalists onto the balcony of his Crickhowell House office to answer questions on how he thought the first year in office had been. However, five days earlier Rhodri Morgan had launched another attack on the London Media. His gripe this time round was their dismissal of Wales as bleak and devoid of hope or aspiration in their coverage of the Corus job losses:

“It has brought out all the prejudices of the London media who have been quick to paint a picture of Wales as a bleak land, devoid of hope and aspiration. We need to tell those siren voices from the M25 that Wales is still open for business - whether it's fibre optics or computer software, advanced electronics or aircraft wings.”<sup>123</sup>

A *Western Mail* editorial was concerned that the First Minister would earn himself a reputation of moaning constantly about the media and warned,

“There is a growing danger that he will characterise his own period of office by his constant criticism of what he believes are negative media attitude, rather than ensuring that the National Assembly has a positive impact on Wales”<sup>124</sup>

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<sup>121</sup> *Week In Week Out*, BBC 1 Wales, 20 February 2001

<sup>122</sup> *Ibid*

<sup>123</sup> *The Western Mail* 10 February 2001

<sup>124</sup> *Ibid*.

Whilst Rhodri Morgan has been critical of the London media and the Welsh media in its turn for their negative coverage of the Assembly, Dafydd Elis Thomas, the Assembly's Presiding Officer refused to pinpoint the blame for this on the media in an interview with the South Wales Echo. Whilst admitting that:

“There is obviously a feeling that the Assembly is not relevant to voters and that issue needs to be addressed.”

He said that the media were not to blame:

“In my view we cannot blame the media because we get more than adequate coverage for what we do, so there is an opportunity for people to follow what is going on and to reflect on it.”<sup>125</sup>

The media's coverage of the steel crisis initially focused its anger and frustration on Corus for its failure to engage in discussions with politicians and Union leaders:

“If the steelworks closes without proper and thorough discussion, the public and the workers are bound to feel opportunities were missed - and Corus will not be forgiven.”<sup>126</sup>

The Western Mail decided to run a coupon campaign entitled 4,500 reasons to save Llanwern making reference to the number of people employed at the steel plant. When the eventual announcement of job losses in Llanwern and other steelworks in Wales came, Corus Chairman, Sir Brian Moffat was branded the most hated man in Wales by the Welsh media. The first of February was dubbed as 'Black Thursday' by the Western Mail. The Daily Mirror delivered a dramatic full front-page headline referring to the town of Ebbw Vale:

“First they came for the miners, and they got away with it.  
Then they closed the pits and no one stopped them.  
Now they have killed our town and there's no one left to help us”<sup>127</sup>

Once the media had vented their frustration and anger with Corus, the focus soon turned onto the National Assembly and the First Secretary and how they would react to the crisis. Rhodri Morgan was described as “not being at his best” in the press conference held on 'black Thursday.' According to the Western Mail he was:

“... brimful of quickfire industry analysis, was too backward in coming forward on the big question of what now.”<sup>128</sup>

A few days following the announcement, The *Western Mail* accused the Assembly of being too slow in its reaction to it:

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<sup>125</sup> The South Wales Echo February 5 2001

<sup>126</sup> The Western Mil 18 January 2001

<sup>127</sup> The Daily Mirror 2 February 2001

<sup>128</sup> The Western Mail 3 February 2001

“Its performance since the announcement of the job losses has been a mixed bag. It quite legitimately condemned Corus for its decision. On the other hand, it has underplayed its won role in the regeneration process which might soon swing into action. To hide behind the claim that the precise details of the job losses were not known until the 11<sup>th</sup> hour was not really good enough.”<sup>129</sup>

The Prime Minister felt it necessary to write an exclusive article to the *Western Mail* in January. This followed suggestions in a previous article in the paper that Wales did not really matter to new Labour. The rationale behind this claim was that most Welsh labour seats are safe ones. The article went further claiming that Tony Blair had not visited Wales enough during the past four years. However, the Prime Minister refuted such accusations,

'For the record, I've visited Wales far more often than many other parts of the United Kingdom since the election. And of course, one of the reasons that you did not hear so much of me here could be that this Government has delivered on its election promise to Wales. I'm proud that it was this Labour Government which gave Wales the chance of its own National Assembly ... I believe devolution in Wales is working and that Rhodri Morgan and his team are doing an excellent job.'<sup>130</sup>

An article written by Ieuan Wyn Jones, Plaid Cymru leader in the same paper a few days later claimed that:

“The fact that Tony Blair felt it necessary to respond so quickly to suggestions that he was turning his back on Wales is the clearest indication yet that Labour is worried about its support in Wales weeks before a likely general election.”<sup>131</sup>

The Assembly also suffered from a series of minor bad publicity stories with the new Assembly Chamber once again attracting controversy. The South Wales Echo cleverly described a model of the new Assembly debating chamber which has been built in a Cardiff warehouse as a

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The Paper went on to condemn the spending of £49,000 on the MDF model labelling it as 'A Chamber of horror for Wales' taxpayers' in its editorial.<sup>132</sup>

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<sup>129</sup> The Western Mail 7 February 2001

<sup>130</sup> The Western Mail 12 January 2001

<sup>131</sup> The Western Mail 15 January 2001

<sup>132</sup> The South Wales Echo 16 February 2001

The *Western Mail* editorial was unhappy with the behaviour of two Assembly Members following a heated argument in Plenary. In a debate on compensation payouts to ill ex-miners Plaid Cymru AM Owen John Thomas called Huw Lewis (Labour) a 'bradwr' (traitor). Huw Lewis reacted by challenging the Plaid AM to take the matter outside. The *Western Mail* commented:

“There is a line to be drawn between intense political debate and exchanges which are purely insulting. In the first place it is inappropriate conduct for one AM to label another a traitor. In the second it is almost as inappropriate that the other AM then asks him to step outside, even if it is only for a verbal exchange.

It is quite simply the politics of toy town and should have no place in the home of devolution.”<sup>133</sup>

Alison Halford, the AM for Delyn received some unwanted media coverage in January when it was reported on the front page of the *Mirror* that she had been at the centre of a police probe. The AM for Delyn was alleged to have assaulted a cab driver after he refused to allow her dog into his car.<sup>134</sup>

The National Assembly has at last appointed a new Head of News nearly one year after the position was made vacant. The post is to be filled by Tim Hartley, currently a journalist with BBC Wales. The fact that the post had been vacant for such a long time had attracted complaints that there was a strategy vacuum in the way the Assembly publicised its activities. On his appointment Tim Hartley commented:

“We need to really stress the importance and the successes of the Assembly and put what teething problems there are into a wider perspective. In a sense we've all been guilty -broadcasters, print journalists and the Assembly itself - of picking individual items and being too critical and not seeing things in their context.”<sup>135</sup>

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<sup>133</sup> The *Western Mail* 16 February 2001

<sup>134</sup> The *Daily Mirror* 15 January 2001

<sup>135</sup> The *Western Mail* 17 January 2001