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EDUCATION POLICY BREAKS LOOSE

Monitoring



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SUMMARY

A Cabinet mini reshuffle took place at the end of February in an attempt to assuage criticism from back-bench Labour AMs while simultaneously keeping the Coalition on track. Andrew Davies was moved from his position as Business Manager to take over the Economic Development portfolio while Carwyn Jones continued as Minister for Rural Affairs but combined this with Business Manager.

Since July 2001 First Minister Rhodri Morgan had overseen Economic Development while a police investigation into his Coalition partner Mike German remained unresolved. It had been expected that the investigation into allegations concerning the Liberal Democrat leader's former role as Head of the European Unit at the Welsh Joint Education Committee would have been completed by Christmas. However, its continuation well into the New Year forced the First Minister to make some changes to ward off criticism that economic development was failing to receiving a Minister's undivided attention. In his announcement Rhodri Morgan left the door open for Mike German to rejoin the Cabinet if cleared by the police. However, the Economic Development portfolio will be unavailable to him, leaving the prospect of another, more significant reshuffle if he returns later in the year.

The Assembly Government's introduction of a 'Learning Grant' for students in February confirmed the emergence of a distinctive education system in Wales. It followed elimination of league tables for school examination results, the commissioning of a pilot study for a new Welsh baccalaureate qualification, and the publication last September of a 'Welsh White Paper' *The Learning Country* which separated Welsh from English education policy in a number of key respects.

The new 'Learning Grant', worth up to £1,500 per person a year, will provide financial support for students in Higher Education and, for the first time, students in Further Education. It is estimated that it will average around £700 to £800 and will be paid to some 43,000 students at a cost of £41 million during 2002-03.

In addition, in January the Education Committee published a comprehensive report on the future of Higher Education in Wales. If implemented this will result in radical and controversial change, not least the potential abolition of the University of Wales as a federal institution. Taken together all these changes mark a significant development of education policy in Wales.

The final report of the Assembly's Review of its procedures, carried out over the past year, was agreed in February. Paving the way for the forthcoming appointment of an independent Commission on the Assembly's powers, the Review recommends:

- Separation of the legislature from the executive and a rejection of the Government of Wales Act's establishment of the Assembly as a corporate body.
- Protection of the scrutiny powers of backbench members to hold the Executive to account.
- Measures to enable the Assembly to influence Westminster primary legislation more effectively.

- A strengthening of the policy development role of the Subject Committees, with ten new expert advisers to help the Subject Committees. One will be allocated to each Subject Committee. This will leave a pool of three, one of which will be a lawyer to monitor Westminster and European Union legislation.

THE ASSEMBLY GOVERNMENT

Nia Richardson and John Osmond, IWA

Mini Reshuffle

A Cabinet mini reshuffle took place at the end of February in an attempt to assuage criticism from back-bench Labour AMs while simultaneously keeping the Coalition on track. Andrew Davies was moved from his position as Business Manager to take over the Economic Development portfolio while Carwyn Jones continued as Minister for Rural Affairs but combined this with Business Manager.

Since July 2001 First Minister Rhodri Morgan had overseen Economic Development while a police investigation into his Coalition partner Mike German, who had been holding that brief, remained unresolved. It had been expected that the investigation into allegations concerning the Liberal Democrat leader's former role as Head of the European Unit at the Welsh Joint Education Committee would have been completed by Christmas. However, its continuation well into the New Year forced the First Minister to make some changes to ward off criticism that economic development was failing to receiving a Minister's undivided attention. In his statement announcing the changes Rhodri Morgan said:

“These new arrangements will allow me to concentrate on the role of First Minister in leading the Government and co-ordinating the work of all Ministers. No other changes in the portfolios of Ministers or the responsibilities of Deputy Ministers are being made. The terms of the Partnership Agreement remain in force, including the provision, temporarily suspended, which provides for Michael German, the Leader of the Liberal Democrats, to be the Deputy First Minister with a major portfolio in the Government. I continue to regard the partnership between Labour and Liberal Democrats as invaluable in ensuring that the Assembly and its Government continue to earn the respect of the people in Wales. I value the work of Jenny Randerson as Acting Deputy First Minister and I am pleased that she is to continue in that role and as Minister of Culture, Media and Sport.”¹

It seems unlikely that in the event of his being cleared Mike German could return to the Cabinet as Economic Development Minister. Andrew Davies made clear that he did not regard his occupancy of the position as temporary:

“I've no intention of keeping the seat warm for anyone. Rhodri appointed me until the elections in 2003.”²

The Cabinet met for an unprecedented three hours on the eve of the announcement, suggesting that the changes did not go through smoothly. There were conflicting media reports, with both Finance Minister, Edwina Hart, and Rural Affairs Minister, Carwyn Jones being tipped for the Economic Development portfolio. Speaking in plenary session the day after the announcement Rhodri Morgan explained his decision

¹ Statement by the First Minister, 26 February 2002.

² 'Lib-Dems accept German has lost Economics post', *Western Mail*, 27 February 2002.

as giving ‘front-of-house’ and ‘back-of-house’ Ministers alternative experience:

“It is good for someone who has held a front-of-house job for almost two years, such as Carwyn, to experience a back-of-house job dealing with the machinery of how the Assembly works. Likewise, it is good for Andrew, who has held a back-of-house job for three years as the Minister for Assembly Business, to have a portfolio and a Subject Committee to deal with.”³

However, the *Western Mail* reported that the Labour Group was “underwhelmed by the announcement”. It quoted a ‘Labour source’ as saying:

“We have prolonged the uncertainty and given the opposition more ammunition about the continuing situation. It is just bad government to allow that situation of uncertainty to continue.”⁴

The Opposition parties also condemned what they described as a “short-term fix”. Cynog Dafis, Plaid Cymru’s Director of Policy said:

“It’s appalling that Wales has been without a full-time Economic Development Minister all this time.”⁵

Conservative leader Nick Bourne said a stronger candidate than Andrew Davies should have been given the job:

“The reshuffle seems to have been determined by the needs of Mike German rather than the needs of Wales.”⁶

An Emerging Education Policy Agenda

The Assembly Government’s introduction of a ‘Learning Grant’ for students in February 2002 confirmed the emergence of a distinctive education system in Wales. It followed elimination of league tables for school examination results, the commissioning of a pilot study for a new Welsh baccalaureate qualification, and the publication of a Welsh ‘White Paper’ *The Learning Country*, in September 2001, which separated Welsh from English education policy in a number of key respects. In addition, during this period the Education Committee published a comprehensive report on the future of Higher Education in Wales - dealt with in the later chapter in this report dealing with the Assembly. This last intervention, if implemented, will result in radical and controversial change, not least the potential abolition of the University of Wales as a federal institution. Taken together these changes mark a significant divergence of education policy in Wales.

The new ‘Learning Grant’, worth up to £1,500 per person a year, will provide financial support for students in Higher Education and, for the first time, students in Further Education. It is estimated that it will average around £700 to £800 and will be paid to some 43,000 students at a cost of £41 million during 2002-03. It will be

³ *Assembly Record*, 26 February 2002.

⁴ *Western Mail*, 27 February 2002.

⁵ BBC Wales news website, 26 February 2002.

⁶ *Ibid.*

organised according to the following criteria:

- Only Welsh-domiciled ‘home status’ students will be eligible.
- Levels of grant will be determined by means testing based on parents’ residual income – no grant will be paid if the income is above £15,000.
- Different levels of grant will be paid to eligible full time and part time students and there will be supplementary elements for mature students (over 25) and those who are faced with childcare costs.
- Local Education Authorities will be responsible for administering the grant.

The announcement means there are now three different arrangements for student support in Wales, Scotland, and England – providing one of the clearest examples of policy divergence due to devolution. As Education Minister Jane Davidson put it, announcing the grant:

“Wales already has a better record than any other part of mainland UK when it comes to attracting youngsters from the lower attainment groups into higher education. We want to improve on that record.”⁷

She added that the initiative was based on one of the key recommendations in a report she had commissioned the previous year from an Independent Investigation Group into Student Hardship, chaired by Professor Teresa Rees of Cardiff University:

“The Rees report told us that our concerns that potential students are put off applying for courses because of student hardship – either real or perceived – were well-founded. We had to do something imaginative to tackle the problem.”⁸

The groundbreaking character of the scheme is emphasised by it covering Further Education as well as Higher Education. Indeed the take up by students in Further Education is expected to be greater by a the ratio of 60 to 40. It is a further indication that Assembly Government is developing a distinctive education policy from that of London in a number of directions.

Whilst Scotland has had a different education system long before devolution, hitherto Wales’s only major deviation from UK-wide policy has been the Welsh medium school system. The Administration was slow-moving at developing its own Education Policy in the beginning as David Reynolds, Professor of Education at the University of Essex has put it:

“Much time was lost early in the life of the Assembly when education was under the stewardship of Rosemary Butler, always uncomfortable with the ‘Education’ brief and unable to develop a distinctive Welsh agenda through the cherry-picking of the best English policies and the replacement of those inappropriate for our Welsh context.”⁹

⁷ Assembly Government Press Release, 12 February 2002.

⁸ *Ibid.*

⁹ David Reynolds, ‘Ploughing Our Own Educational Furrow’. *Agenda*, IWA, Autumn 2001.

This difficulty Rosemary Butler had in developing a separate Welsh agenda was demonstrated early on during the dispute over performance-related pay for teachers. The Pre-16 Education Committee did not wish to have the threshold for teachers' pay increments linked to the achievement of their pupils as assessed in examinations. However, Rosemary Butler refused to back away from the Westminster position arguing that the matter was not devolved, even though further exploration of the Acts involved could have found a way of getting around this. It was clear that on this issue the Administration was concerned to ensure that Wales did not have a system different from England.

However, things changed with the arrival of Jane Davidson to the Cabinet as Minister for Education and Lifelong Learning following the partnership agreement in October 2000. She has battled with the civil service on occasions to produce a distinct direction for education policy in Wales. Her Education White Paper *The Learning Country* was widely welcomed for its new and 'Welsh' approach to education, including:

- An end to testing at age seven.
- A new foundation level for ages three to seven
- Closer links between primary and secondary schools to raise standards for children between ages 11-13
- An overhaul of special needs.

As Professor Reynolds remarked,

'For those of us in Wales who have criticised the absence of distinctively Welsh educational policies, the new Welsh document comes as a breath of fresh air.'¹⁰

The Learning Country differed from the provisions for England in a number of key respects. In England the private sector will be encouraged to bid for proposals to build new schools. The Welsh document did not envisage such an extensive private sector involvement. There was also no mention of the targets set for English Local Education Authorities to allocate 90 per cent of their resources straight to schools. England may have centrally controlled numeracy and literacy strategies but, according to *The Learning Country*, teachers in Wales would be allowed to decide on their own teaching methods. There was also no mention of city academies and specialist and faith schools, ideas that were strongly advocated in the English provisions.

During the plenary debate on the England and Wales Education Bill, which embraces the provisions laid down in *The Learning Country*, Jane Davidson emphasised that it provided an exemplar of the way devolution should work:

"I reiterate that this Bill is an example of devolution working. In the 20 odd years that I have been involved in looking at Parliamentary Bills, I am not aware of any other where two countries have been able to go in two different directions, using the same piece of legislation, devised together before the legislation went for scrutiny through the various parliamentary stages. It is a great tribute to the Assembly and its Members, and their support for this agenda,

¹⁰ *Ibid.*

that we have been able to do this”.¹¹

During the past year the Minister has also eliminated school league tables and initiated a pilot programme for a new Welsh baccalaureate post-16 qualification. In February 2002 she additionally announced an extra £25 million for local education authorities to:

- Reduce junior class sizes.
- Support initiatives to improve standards on the transfer from primary to secondary education.
- Lift attainment in support of under-funding schools.

The main commitment was to reduce class sizes in primary schools in a further divergence from England. As Jane Davidson put it:

“We have already made great strides cutting infant class sizes. A statutory limit of 30 pupils per class has been phased in with help from £36 million from a special infant class size grant funding extra teachers and new class rooms. Ongoing funding of £13.6 million a year has been transferred into the local government settlement to maintain this commitment. In addition, uniquely here in Wales, we have made the commitment to tackle junior class sizes. Our target is to bring down junior class sizes in line with infant class sizes by 2003. Money provided last year has already made an impact, with the number of junior pupils in classes over 30 falling by 29 per cent in September 2000 to 22 per cent in September 2001.”¹²

In the field of Education the Assembly Government is developing policies as distinct from England as it can be under the terms of devolution. The fact that many of the proposals have found favour with teachers in Wales has led to the Minister being labelled a “teacher’s pet” and Wales being labelled as a “left-wing teachers utopia.”¹³ It is clear, however, the drive behind this ‘Welsh’ policy direction is the Minister herself. As David Reynolds put it:

‘We are beginning to drop those English policies which are inappropriate to our context, which is a considerable improvement on our recent educational history. It may be late in coming but a Welsh alternative is finally on the starting blocks ...’¹⁴

Pressure Builds for More Powers

(i) The Independent Commission

As part of the Partnership Agreement which established the Coalition between Labour and the Liberal Democrats a commitment was made for an independent Commission

¹¹ Assembly Record, 10 January 2002.

¹² Assembly Government Press Release, 5 February 2002.

¹³ Louise Elliott, BBC Wales Education Correspondent, giving an ‘End of Year Report’ on Jane Davidson, BBC website (www.bbc.co.uk) 26 December 2001.

¹⁴ David Reynolds *op. cit.*

to be set up to review the powers and the electoral arrangements of the National Assembly. The First Minister is currently deliberating over who will be appointed to the commission and is expected to announce its membership before Easter. It is envisaged that the review will last approximately 18 months from Easter until the Autumn of 2003.

High on the Commission's agenda will be the case for giving the Assembly powers over primary legislation. In this respect, therefore, it was significant that a member of the Assembly Government, Deputy Minister for Education Alun Pugh, AM for Clwyd West has called for full legislative powers. In a lecture at the University of Glamorgan in December he centred his argument on a future scenario in which different parties would be governing in Cardiff Bay and Westminster. Currently, if the Assembly Government wished to initiate primary legislation it would have to persuade the Westminster government to find time in its parliamentary timetable. According to Alun Pugh this process, difficult enough now, would be impossible if two different parties were governing in London and Cardiff. As he put it:

“The current settlement can work when two sets of politicians from the same party and their officials actively co-operate. But this spirit of mutual respect and co-operation to secure different outcomes in one Act could never survive the election of governments of different parties in Cardiff Bay and Westminster. At the heart of the current arrangements, ticking away quietly is a constitutional time bomb at the heart of the devolution settlement. It is timed to go off shortly after the election of two different parties to Government in London and Cardiff.”¹⁵

Examining the most probable scenario of a Tory government in London and a Labour government in Cardiff, he continued:

‘While our Scottish colleagues could block the reintroduction of the poll tax, the privatisation of the NHS or the imposition of education vouchers, we in Wales would be steamrollered by the primary legislation whipped through by English Tories.’¹⁶

He concluded that the Independent Commission will find it difficult not to judge that primary law making powers should be given to the Assembly and predicted that a new Government of Wales Act would be introduced in 2007 or 2008 to legislate for this change. Remarking that this view might be against Labour's official line, he declared:

“I have also heard it said that after the assembly ‘proves itself’ by some vague criteria then primary powers may flow in due course. This is like asking a man in a straightjacket to dig a deep trench with his bare hands - success being rewarded by the removal of the jacket and the presentation of a shovel.”¹⁷

¹⁵ Alun Pugh, Speech to the University of Glamorgan, 5 December 2001.

¹⁶ *Ibid.*

¹⁷ *Ibid.*

(ii) Agriculture

Carwyn Jones's call for the Assembly to have the same powers as the Scottish Parliament in order to deal with the foot and mouth crisis was reported in the Spring 2001 Monitoring Report.¹⁸ The Minister for Rural Affairs became increasingly frustrated that the Assembly was expected to manage the crisis in Wales but did not have the powers to do so effectively. One example was that it did not have the power to introduce movement licences, a power that had been devolved to the Scottish Parliament.

On the eve of a visit to Brecon in January by the Prince of Wales' to see the effects of foot and mouth, Carwyn Jones said the Assembly Government would be pushing for full devolution of powers on agricultural affairs:

“We feel there should be full devolution of powers more in line with Scotland. The difficulty was that the Department for Environment, Food and Rural Affairs had the legal power and we had the staff. This anomaly was identified and next time it will be important that the Assembly has the legal power to act. In some cases we didn't have the opportunity to take decisions as quickly as we would have liked.”¹⁹

The Chair of the Assembly's Rural Affairs Committee, Conservative AM Glyn Davies, supported this call:

“The sooner we can find ways to transfer management of animal diseases to Cardiff and clarify it the better.”²⁰

The National Farmers Union Cymru's report into the foot and mouth crisis also concluded that the crisis could have been dealt with quicker if the Assembly had had more powers:

“Animal disease control is not a devolved function/responsibility and hence the National Assembly for Wales throughout the Foot and Mouth outbreak has acted only as agent for the Department for Environment, Food and Rural Affairs in Wales. Whilst the Assembly actively sought to input into and to influence the central decision making process, it did not have the prerogative or discretion to take or alter decisions taken by the Government; neither could it shape the eradication policy to reflect the particular needs and interests of the livestock industry in Wales. NFU Cymru believes there is a need for an early and detailed review of the powers of the Assembly in disease control terms. Whilst NFU Cymru recognises that animal disease respects no political boundary, we are convinced that had the National Assembly for Wales had greater discretion to tailor the eradication and containment strategy to meet the particular, and on occasion very different circumstances and priorities of farmers in Wales, then the arms length approach would have been considerably shortened, swifter, and better. More appropriate solutions with greater relevance, particularly to

¹⁸ *Farming Crisis Consolidates Assembly's Role: Monitoring the National Assembly March to May 2001*, IWA.

¹⁹ *Western Mail*, 28 January 2002.

²⁰ *Ibid.*

practical problems would have been regarded with greater imperative at a Welsh level.”²¹

(iii) Police

Pressure has also been growing for responsibility over the four police forces in Wales to be devolved from the Home Office in London to the Assembly. The Assembly is already involved as it accounts for 52 per cent of the funding for the police forces in Wales, via a precept on council tax bills.²² The Assembly Government Cabinet discussed the matter in early December 2001.²³ A month later Plaid Cymru AMs sought information on the matter from the First Minister who responded:

“Edwina Hart, as the relevant Minister, was due to meet Wales’s four chief constables on 14 January but, unfortunately, this has not proved possible. However, we still intend to discuss this transfer, which is a viable option. I believe that all four Chief Constables are in favour of the transfer, but I cannot say that with certainty until we meet them. We would need wide-ranging consultation before such a step could be taken, but there is considerable support and strong arguments for doing so.”²⁴

However, the Administration’s apparent enthusiasm for the move had seemingly lessened by the time Plaid Cymru brought a debate on the matter to Plenary later in the month. In a debate entitled ‘Safe Communities’ Plaid’s leader Ieuan Wyn Jones called for a Review to consider “the appropriateness of devolving responsibilities for the police to the National Assembly.”²⁵ He argued that there were fewer constables in Wales for every 100,000 of the population than in England. The Assembly needed to be in control of the police to be able to effectively create safe communities:

‘If we are to create safe communities, the Government of Wales would have to draw up a comprehensive strategy which includes responsibility for policing on the one hand and community schemes on the other. Without doubt, carving up the responsibilities between the Home Office, the Assembly and local authorities hinders the work. That is why we, in this motion, call for a review to consider the appropriateness of devolving responsibilities for policing to the National Assembly. The Assembly Government, whatever its political colour, could then form a strategy with the police and local authorities, which are responsible for driving community schemes forward.’²⁶

The Coalition reacted to the motion by proposing an amendment which stated that the question of devolving responsibility for the police in Wales would be included in the forthcoming independent Commission on the powers of the National Assembly. As Mike German, Leader of the Liberal Democrats, said during the debate:

²¹ National Farmers Union Wales, *Lessons that might be learned for the future from the Foot and Mouth outbreak in Wales*, 2002.

²² *Western Mail*, 25 January 2002.

²³ See Cabinet minutes, 10 December 2001, Assembly website.

²⁴ *Assembly Record*, 8 January 2002.

²⁵ *Assembly Record*, 29 January 2002.

²⁶ *Ibid.*

“The Partnership Agreement has afforded us the opportunity to make the case with the soon-to-be established Commission on Assembly powers. That Commission will have greater authority and a wider remit than Plaid Cymru’s proposed review of crime policy.”²⁷

Plaid Cymru argued that this would give too long a time scale before in-depth consideration would be given to the issue. As Ieuan Wyn Jones said:

‘The new excuse for not doing anything is the independent Commission. I predict that the First Minister’s stock answer to any new initiative between now and 2003 will be the independent Commission.’²⁸

Meanwhile, the Liberal Democrats, who declared their ‘unequivocal’ support for the Assembly to be given more powers for policing in Wales²⁹ but supported the view that it be included in the remit of the Independent Commission, are intending to table an amendment to the Police Reform Bill currently passing through the UK Parliament. The amendment will call for powers over policing to be handed to the Assembly. Welsh Liberal Democrat leader Lembit Opik told the *Western Mail*:

“We want to see more bobbies on the beat. We want crime prevention and the policing of Wales to be controlled by Welsh people.”³⁰

Assembly Building Row

In February the Minister for Finance, Local Government and the Communities, Edwina Hart, was accused of misleading the Assembly on the findings of an adjudicator’s report on disputes between the Assembly and the architects of its new debating chamber, the Richard Rogers Partnership (RRP). In July 2001 Edwina Hart sacked the Partnership from the building project because of concern about cost increases. In December, Richard Rogers logged a claim against the Assembly for £530,000 in unpaid fees. In response, the Assembly counter-claimed for £6.8 million in damages for breach of contract. An adjudicator, nominated by the Construction Industry Council, was brought in to settle the dispute.

He ruled that the Assembly owed Richard Rogers £432,000 in unpaid fees, although this was less than the £530,000 demanded. Furthermore, he ruled that he could not find sufficient evidence to support the Assembly’s £6.8 million counter-claim

On the 14 February Plaid Cymru tabled an emergency question seeking a statement on the arbitration. Members had been unable to see full copies of the adjudicator’s report as it came under commercial law’s confidentiality rule. In her statement, Edwina Hart interpreted the Adjudicator’s ruling as follows:

“The Assembly believes that the RRP’s claims for fees were too high. The adjudicator agreed with the Assembly in that he has reduced RRP’s entitlement

²⁷ *Assembly Record*, 29 January 2002.

²⁸ *Ibid.*

²⁹ Mike German, Leader of the Liberal Democrats, *Assembly Record*, 29 January 2002.

³⁰ *Western Mail*, 29 January 2002

from £530,000 to £432,000. In coming to his decision, the adjudicator confirmed that RRP did significantly underestimate the cost of constructing the Assembly building ... The Adjudicator also confirmed that RRP must hand over all project documents, which it previously withheld, to the Assembly. He also confirmed that the Assembly owns the copyright of the building's design. Unfortunately the adjudicator was not satisfied at this stage that there is sufficient evidence to justify a finding of negligence against RRP. Accordingly, he found that although RRP effectively got it wrong, the Assembly is not due any damages or repayment of fees."³¹

That afternoon, the Richard Rogers Partnership circulated a confidential paper to Assembly Members arguing that:

'The statement made by Edwina Hart to the Assembly members this morning does not fairly and accurately represent the findings of the adjudicator.'³²

The Partnership challenged Mrs Hart's claim that they significantly underestimated the cost of the Assembly building. They argued that nowhere in the report did the adjudicator come to this conclusion, quoting instead a section in his report stating that the Partnership had:

"Carried out their duties to a standard of a professional consultant who is experienced and competent in the provision of services of the same or similar nature, size, scope and complexity."³³

The Partnership also refuted the claim made in the Minister's statement that although the adjudicator could not find sufficient evidence to support the Assembly's allegations of misrepresentation and claims for damages, he had '*found that RRP effectively got it wrong.*' Instead, they quoted the adjudicator's report which cleared them of misrepresentation:

"The National Assembly for Wales are not entitled to a declaration that Richard Rogers misrepresented the proper cost of its design and thereby induced NAW to enter into a contract with Richard Rogers or that they breached the terms of the contract by not complying with the budget constraints or by not discharging their budgetary and advisory duties with reasonable skills and care."³⁴

The Opposition parties demanded that the adjudicator's report be made public. They said the Minister had been extremely selective in quoting from it in her statement, claiming that she had misled the Assembly. Under pressure Mrs. Hart released the full report the next day, a Friday, but not until 7.00pm when the Assembly Members were leaving for a week's half-term break. The Conservative leader Nick Bourne called for the Assembly to be reconvened while Plaid Cymru called for the Minister to be removed from the project. The Party's leader Ieuan Wyn Jones said:

'Rhodri Morgan should now take personal charge of the project and use the

³¹ Assembly Record, 14 February 2002

³² Statement to the Assembly by the Richard Rogers Partnership, 14 February 2002.

³³ *Ibid.*

³⁴ *Ibid.*

authority of his office to drive it forward. The fiasco over the arbitration ruling has seriously damaged not only the credibility of Rhodri Morgan's government but the image of Wales in the rest of the world.³⁵

However, First Minister Rhodri Morgan responded:

'We were advised that he (Richard Rogers) was not entitled to the fees. We had legal advice that we should make a counter claim. All we have done is followed legal advice. Would people have wanted us to ignore the advice?'³⁶

Millennium Centre Gets Go-ahead

As delays continue with the development of the new Assembly building, the other big construction development being undertaken by the Assembly, the Millennium Centre for the Performing Arts which will be built alongside, was given the green light. The Assembly approved the scheme in January. It will cost a total of £104 million, £37m of which is being directly funded by the National Assembly with the remainder coming from the Millennium Commission, the Arts Council for Wales, the Welsh Development Agency and the private sector.

It is now planned that the centre will be open by the end of 2004. It will include a 1,900-seat theatre and will be the home for a range of Wales' premier arts organisations including the Welsh National Opera, Diversions Dance Company, Hijinx Theatre and Urdd Gobaith Cymru (the Welsh youth movement).

Cross-party support was found for the project in plenary with most members welcoming the scheme as an opportunity to put Wales on the world architectural map. There were hopes that it would play as important part in regenerating the Welsh economy as has the Bilbao Guggenheim Museum in the Basque Country.

However, the motion did not pass unanimously. Two Labour backbenchers ignored their party whip and voted against the project. Peter Law, AM for Blaenau Gwent said the money could be better spent on poor communities in Wales:

"I wonder how much more money we are going to pour into this latest Cardiff-based national institution at the expense of poor people, who are particularly excluded throughout communities in Wales. If we are unable to change the lives of deprived and excluded people, we have failed to achieve what the Assembly is about. If the first motion is carried today, the rich will have stolen from the poor."³⁷

Alison Halford, AM for Delyn in north east Wales, argued that most of her constituents would never be able to afford to visit the centre:

"What kind of signal are we sending to the people in north and west Wales? Wales needs to build on existing successes, such as Theatre Clwyd Cymru, rather than gambling £100 million on a sixth theatre for Cardiff. How exactly

³⁵ *Western Mail* 16 February 2002.

³⁶ *Western Mail* 19 February 2002

³⁷ *Assembly Record*, 22 January 2002.

would my constituents benefit from it? How do they get to Cardiff? The train fare costs around £50, and the price of the tickets and a hotel bill would be on top of that. To get here by road takes four hours. It is unrealistic. The Government's move today will, sadly, rekindle the north-south divide."³⁸

As a result of their defying the whip they were suspended from the Labour group for a week. Alison Halford was suspended by 12 votes to nine, and Peter Law (after the arrival of two additional members) by 14 to nine.³⁹ It was claimed that removal of the whip was supported by the so-called payroll vote within the Assembly Labour Group.⁴⁰

Meanwhile eight Welsh Labour MPs at Westminster signed an Early Day Motion opposing the development of the Millennium Centre. Sponsored by the Blaenau Gwent MP Llew Smith it was a rare instance of confrontation between Labour representatives at the two levels of government:

“ ... this House registers its opposition to the decision taken by the National Assembly for Wales to give the go-ahead for the construction of the Wales Millennium Arts Centre in Cardiff Bay; notes that the current projected cost for the Millennium centre is £104 million, of which approximately £85 million is to come from public funds and that in addition the centre will receive a yearly subsidy for running costs of £2 million; believes that this huge expenditure of public funds is unjustified where there are much more important and urgent ways that this money should be invested; demands the redirection of the resources saved on combating poverty, and, if money is targeted specifically at the Arts it should be directed towards employing many more peripatetic teachers, purchase of instruments, costumes etc. in the schools throughout Wales; and calls upon the relevant elected Members in Wales to establish as a matter of urgency a Public Inquiry into the Millennium Centre Project.”⁴¹

Angry that MPs in Westminster were interfering in a devolved matter, the Assembly Labour Group despatched a letter of protest to the Westminster Group of Welsh Labour MPs.

Equal Pay and the Civil Service

Following an audit of the Assembly civil service pay structures, a pay deal has been agreed which will increase staff costs by 22.3 per cent (more than £23m⁴²) over the three years 2002-03 to 2004-05. At least half of the increase is due to the equal pay requirement, the balance being taken up by inflation and extra recruitment. The result is a radical reform of the Assembly's pay system, bringing it into line with the requirements of the Equal Pay Act.

³⁸ *Ibid.*

³⁹ *Western Mail*, 15 February 2002.

⁴⁰ WalesWatch.welshnet.co.uk

⁴¹ Early Day Motion 710, 22 January 2002.

⁴² The National Assembly's Budget for 2002-03 to 2004-05 shows the Central Administration's staff costs rising from £74.5m to £97.1m, and those of the Presiding Office from £7m to £8m: Assembly website: www.wales.gov.uk

The pay audit, carried out during 2001 at the behest of the Equal Opportunities Committee, found that in all but the most junior administrative grades, on average men earned considerably more than women for work of the same grade. In some grades, the pay gap approached 10 per cent. For instance, at the highest pay band, men earn on average £46,705 while women earn £42,123 – a differential of 9.8 per cent.

The differentials have built up partly as a result of incremental annual pay rises being replaced in the civil service in the early 1990s with performance-related pay increases and in many cases pay freezes. This left some men, already at the top of their pay bands, at a comparative advantage to many women. There are likely to be knock-on effects for the rest of the public sector in Wales, with the unions pressing home their advantage. As the Public and Commercial Services Union's National Office for Wales, Jeff Evans, put it:

“This was the cost of making the Assembly's pay structure lawful.”⁴³

It also might be regarded as another unintended consequence of devolution, in this case resulting from the Assembly's unique statutory duty, laid down in the Wales Act, that in all its activities it should promote equality of opportunity for all people. The ripple effects are likely to spread across the border to impact on civil service and public sector pay structures across the United Kingdom.

Policy Research and Evaluation

The Assembly Government is appointing a Chair and up to five members to a new Economic Research Advisory Panel which will oversee a £450,000 research programme in its first year, 2002-03. It will work alongside a new Economic Research and Evaluation Unit within the Assembly civil service that will undertake and commission work from external applied research, consultancy and academic institutions. First Minister Rhodri Morgan said:

“Across the European Union there is a growing recognition of the need for countries to devote more resource to economic research and analysis. Developing this knowledge base is one of the main building blocks for a strong Welsh economy.”⁴⁴

It is intended that the Advisory Panel will be a partnership between the academic, research and business communities and key public sector organisations. Reporting to the First Minister it will advise on research needs and oversee work covering a broad range of issues including economic development policy and aspects of education, rural development, community regeneration, environment, transport and planning policies.

⁴³ Speaking at an Equal Opportunities Commission seminar, Cardiff, 7 February 2002.

⁴⁴ Assembly Government Press Release, 19 February 2002.

POLICY DEVELOPMENT

Nia Richardson, IWA

Health

The Health and Social Services Department is to benefit from extra funding worth £49.3 million as a consequence of the Chancellor of the Exchequer's pre-Budget Report. Health Minister Jane Hutt stated that £31m will be allocated directly to Health Authorities as part of their allocations for 2002-03. This will help them fund the introduction of universal neo-natal hearing screening during 2002-03. Another £3m will be spent implementing the National Information Management and Technology Plan which the Minister will be launching in March, and £1m will be allocated to the emergency ambulance services. Clinical education in Wales will also benefit from £610,000 whilst £70,000 has been allocated to provide paramedics for the Welsh Air Ambulance Service.

Furthermore, in January the Minister announced that NHS Trusts and Health Authorities will not have to re-pay loans from the Assembly issued before 31 March 2001. This means that £41million worth of debt will be written off. Authorities and Trusts will have to show two years of break-even budgets before they receive this money.

The Primary Care Strategy was approved by the Assembly in plenary in January. The Minister stated that an action plan to implement the strategy will be unveiled later in the year and that community and public health care would be the new focus of the service in the future. Plaid Cymru said that the strategy was inadequate whilst Alun Cairns, for the Conservatives said that targets were needed in the strategy for waiting times and recruitment.

As part of the Primary Care Strategy, General Practitioners who take up a Welsh post will be given a £5,000 payment on qualifying to encourage them to come and work in Wales. Dubbed the 'Golden Hellos' scheme, it has immediate effect. The scheme is part of a series of incentives aimed at addressing recruitment shortages. Other initiatives include an extra £1,000 a year to GPs over the age of 55 who continue to practise. In addition, newly qualified GPs who take up posts in Wales will be eligible for a maximum of £2,000 to pay off their student loan.

The Minister for Health and Social Services has established a new Advisory Panel to advise her on the implementation of her strategy on substance misuse. The Panel will be established as a lower tier Assembly Sponsored Public Body with the following terms of reference:

- To oversee the implementation of the Welsh Substance Misuse Strategy and to advise on its development.
- To advise on substance misuse issues and operational arrangements.
- To advise on the impact of policy developments in related fields.

The Minister also announced in January that she was to extend the meningitis C vaccination to all under 25 year olds. It is currently being offered to everyone under 18. However, due to the higher rate of annual incidence of the disease in young adults aged 20 to 24 the Minister has decided to extend immunisation to cover this age group.

The Health and Social Services Committee is currently reviewing the services available for children with special health needs.

Economic Development

The Assembly Government's ten year strategy for economic development, *A Winning Wales*, was officially launched in January by First Minister Rhodri Morgan. Entailing a total expenditure of £15 billion the Strategy is already underway with a project board established and remit letters and targets being issued to the Welsh Development Agency, the Welsh Tourist Board and Education and Learning Wales (ELWa).

The Assembly's Economic Development Committee discussed a report on the future role of Cardiff International Airport.⁴⁵ The report was prepared by a working group which had been set up jointly by the Ministers for Economic Development and the Minister for the Environment, Planning and Transport in March 2001. The group included representatives from the public and private sectors under the chairmanship of the Welsh Development Agency. The draft report examined:

- The economic importance of the airport.
- The potential for tourism.
- Issues of surface access.
- The range of destinations and balance of services between scheduled and charter flights.
- Use of the airport as a gateway for freight.
- The availability of a sufficient properly skilled workforce.

Press reports that ensued tended to focus on the £100 million road option to the Airport that the group had examined. The Environment Minister distanced herself from the commitment to the financial outlay for that road scheme. Instead, she chose to emphasise how rail links to the terminal could be improved.

The European Structural Funds

The Objective One programme has approved its 400th project, *Help Wales*, a £1.5million scheme at the University of Glamorgan to increase collaboration between small and medium sized businesses and Higher Education.

Two new working groups are being created by the Programme Monitoring Group for Objective One. One will develop ways of monitoring the programme's progress whilst the other will advise on implementation issues. However, there were concerns at an Economic Development Committee meeting on 16 January that the Assembly Government had failed to develop an infrastructure partnership until now, two years

⁴⁵ Economic Development Committee Meeting, 31 January 2002.

into the Objective One programme. Alun Cairns, the Conservative's Economic Development spokesman, claimed this was the reason why only £1.4 million of the £150 million available for infrastructure expenditure has been spent. He blamed this on the fact that Rhodri Morgan was currently holding too many portfolios. However, Welsh European Funding Office representatives that they were confident that £25 million worth of infrastructure projects would be approved shortly.

The first Objective Two projects have also been approved. The Objective Two programme, covering eastern Wales - Cardiff, Newport and Powys, parts of Wrexham, Monmouthshire and the Vale of Glamorgan - is worth £76 million. Nearly £93,000 has already been allocated to creating a business services community centre in Rhayader.

The West Wrexham URBAN II programme was formally approved by the European Commission in December. The programme is worth £12million with more than £6 million coming from the European Regional Development Fund. It promotes the economic and social regeneration of small and medium sized towns and cities. The priority for the programme in Wrexham is the creation of an entrepreneurial and participating community.

Education

The England and Wales Education Bill was published at the end of November. There are 32 clauses which apply to Wales only and that are needed to implement the Minister's own strategy for Education in Wales, *The Learning Country*, published in autumn 2001. The Bill formally provides for a different curriculum in England and Wales, creates a new foundation stage for 3-7 year olds in Wales and includes measures to help transition from primary to secondary schools in Wales. Other Wales-only clauses cover federation of schools, admission arrangements, attendance targets, higher education and special educational needs. The Bill was discussed by Plenary in January when several members expressed concern that as it had already received its Second Reading in the House of Commons this would reduce the amount of influence the Assembly was able to exert over its contents.

The Education and Lifelong Learning Committee have begun a review into the Welsh language in education.

Environment, Planning and Transport

A consultation paper on changes to the planning system was circulated by the Minister for Environment, Planning and Transport Sue Essex in January. Entitled *Planning: Delivering for Wales* it has proposals for a fairer, clearer and faster planning system.

The Assembly's request for a Wales and the Borders rail franchise was given the go-ahead by Secretary of State for Transport, Stephen Byers in December. The franchise will last for 15 years and a preferred bidder will be announced in the Autumn. The following eight companies have been chosen for the next round of the franchise bidding process:

- Arriva Trains Ltd

- Connex Transport UK ltd
- First Group plc.
- GB Railways Group plc.
- National express Group plc.
- NS/Dutch Railways
- Serco Ltd.
- Keolis SA

The Strategic Rail Authority will announce a further shortlist in Autumn 2002 and have a new franchise operational by early 2003. The Minister for Environment, Transport and Planning Sue Essex said,

‘Securing the Wales and Borders franchise is one of the Welsh Assembly Government’s key public transport objectives. I am greatly encouraged by the evidence so far that the franchise is also being treated as a priority by the Strategic Rail Authority.’⁴⁶

The Environment Agency, an Assembly Sponsored Body, is to receive an additional £1 million of funding over the next two years to:

- Undertake additional work to support the Assembly Government’s proposed Waste Strategy.
- Tackle pollution affecting bathing waters and rivers.
- To enhance monitoring of regulated environmental sites, including landfill sites which are the source of most public concern in Wales.

-

Agriculture

Carwyn Jones, the Minister for Rural Affairs is consulting on proposals to create a new body to revitalise the red Welsh meat industry. The new body which would be called Antur Cig Cymru would be responsible for marketing Welsh lamb, beef and pork. Apart from developing the Welsh red meat industry it would provide advice on associated consumer issues. The new body would be a company limited by guarantee and bring together the Welsh lamb and Beef promotions with input from the Welsh Development Agency and Meat and Livestock Commission Wales. This was one of the proposals in *Farming for the Future*, an Assembly Government strategy launched in November 2001.

Local Government, Housing and the Communities

The £9 million Community Trust Fund, a key part of the Assembly Government’s Communities First Programme, was unveiled in December. It will provide small grants to local community and voluntary groups within the areas concerned.

A ‘Safer Homes This Winter’ initiative to protect homes from bogus callers and burglars has been launched. The programme includes a high profile publicity campaign over two months and will have a budget of £2 million from the Assembly during 2002-03 on top of what has been allocated by the Home Office. The funding

⁴⁶ Assembly Government Press release 30 January.

has been divided between partnerships based on the Local Heath Authority areas.

Culture

A working party made up from members of Cymru'n Creu, Wales' cultural consortium, has been established to review the feasibility of a National Sports Museum for Wales.

THE ASSEMBLY

John Osmond and Nia Richardson, IWA

Debate on the Procedural Review

Introducing a plenary debate on the final report of Assembly's Procedural Review in February 2002, the Deputy Presiding Officer, John Marek, placed it firmly in the centre of a path leading towards an extension of powers. This statement, made with the authority of the Presiding Office, was significant since it provided further evidence of an emerging consensus on the matter across the parties in the Chamber.

The Review began in January 2001 and took a year of continuous work to reach its conclusions. Chaired by the Presiding Officer, the Review Group comprised the party leaders and business managers and was supported by officials from the Cabinet Secretariat and the Presiding Office. The Review was carried out within the framework of the 1998 Wales Act and concentrated on procedures rather than policy. In this way it was designed to achieve consensus rather than division. At the same time, attention quickly focused on two related issues that directly impinged on the Assembly's wider competence: its role in the legislative process and its relationship with Westminster and Whitehall. The final report, published in February 2002, contained detailed proposals on both these matters, discussed in detail in the following chapter.

It was clear from the start that the Review would do little more than clear the ground for a more far reaching examination of the Assembly's powers, to be undertaken by an independent Commission. This was to be established in the first half of 2002 under the terms of the Coalition Agreement between Labour and the Liberal Democrats, and reporting in the second half of 2003, once the Assembly May elections of that year were safely out of the way. Despite the self-imposed constraints, the Procedural Review provided a valuable opportunity for AMs across the parties to test how far they could push the existing boundaries of the Assembly's powers. In his opening presentation on the final report, in the plenary debate held on 14 February, the Deputy Presiding Officer declared:

“Some Government Ministers say that devolution is an event. It is patently not an event; it is a process, and we are taking another step in that process today by reviewing our own procedures. That process will continue through the Modernisation Committee of the House of Commons, chaired by the Lord President of the Council and Leader of the House of Commons, Robin Cook, who has already visited the Assembly and will have further discussions with Assembly Members. Eventually we will have the Commission on the powers of the National Assembly for Wales, and that will also continue the process.”⁴⁷

John Marek identified four main themes in the Review Group's report:

- Separation of the legislature from the executive and a rejection of the Government of Wales Act's establishment of the Assembly as a corporate body. This was

⁴⁷ Assembly Record, 14 February 2002.

underlined by universal acceptance of a Plaid Cymru amendment to the motion being debated, welcoming “the clearest possible separation between the Government and the Assembly which is achievable under current legislation.”

- Protection of the scrutiny powers of backbench members to hold the Executive to account.
- A strengthening of the policy development role of the Subject Committees, reflected in the report’s recommendation that ten expert advisers help the Subject Committees. One will be allocated to each of the seven Subject Committees. In addition there will be a pool of three more including a lawyer who monitor forthcoming Westminster and European Union legislation. John Market said he considered this last provision “... to be probably our biggest advance.”⁴⁸
- Recommendations for influencing more effectively legislation emanating from Westminster and the European Union. Marek commented: “We would all agree that that has not been one of our strong points so far. That is not because we have failed as Members, but because of our powers and the way in which they have been transferred to us in the Government of Wales Act.”⁴⁹

In the debate that followed it was interesting that Conservative members concentrated on the Assembly’s failings in getting to grips with primary legislation at Westminster, while Plaid Cymru highlighted the role and effectiveness of the Subject Committees. On the former, perhaps the most effective intervention was made by David Melding, the Conservative Member for South Wales Central. He pointed out that discussions with Westminster had so far only considered allowing the Assembly to undertake pre-legislative scrutiny of Wales-only Bills which would be very few, and for limited and specific matters. The overwhelming character of significant legislation either affected the UK as a whole or England and Wales:

“If major Bills on health and education, which are probably the most significant of the devolved matters – certainly in terms of the amount of public expenditure that they require – are not desegregated and presented as Wales-only measures, then the future for our influence on primary legislation is grim.

“Let us reflect on the fact that the Minister for Health and Social Services originally told us last June that the restructuring of the National Health Service in Wales would be dealt with by a Bill specific to Wales. Before the end of July last year – within six weeks – she had written to all Health and Social Service Committee members to say that the measures would have to be carried in an England and Wales Bill. Such a volte-face within six weeks indicates something dramatic happened in the Assembly Government’s discussions with its Westminster colleagues. To me it is quite obvious what happened. The minute that you present a Wales-only Bill on the restructuring of the health service, which is happening around the UK, then you have to present an England-only Bill to deal with the restructuring of the health service in England. That would set a constitutional precedent that the Government is unwilling to set. I will not

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

go into the constitutional implications, but they are extensive.⁵⁰ I believe that we will never see significant Wales-only Bills presented to the Assembly. Indeed we may go through this whole Assembly term without dealing with one draft Bill if time is not obtained in the Queen's Speech for the proposed NHS (Wales) Bill, which will reform community councils."⁵¹

An Assembly Government amendment tabled at the debate by Business Manager Andrew Davies acknowledged these points. It welcomed the publication of draft Westminster Bills for the Assembly to consider,

"... but recognises scrutiny must in practice, prioritise Bills proposed by the Assembly and those which significantly affect Wales."

As Andrew Davies explained:

"There is a strong and growing view that so-called pre-legislative scrutiny needs to be much more widely used. The Government welcomes that. It would allow a wider range of influences on primary legislation, over a longer period, and we feel it would lead to better scrutiny, better law and therefore better legislation ... However, it is folly to imagine that, as the report states, all Bills affecting Wales could be published in draft form, let alone be effectively scrutinised by the Assembly. Nearly every Bill during its passage through Westminster affects Wales in some way or other. For example, in the current parliamentary session there will probably be around 40 Government Bills. Only two, which relate solely to Northern Ireland, will not affect Wales. Scrutinising those Bills is a full-time job for the House of Commons, which has 659 Members. How the Assembly which has 60 Members, could manage that alongside all its other work, which includes scrutinising our own subordinate legislation is, I think, beyond most Members and me."⁵²

The other main issue in the debate concerned the relationship of Ministers with the Subject Committees, an issue raised by Cynog Dafis, Plaid Cymru Chair of the Education and Lifelong Learning Committee:

"It is difficult for the Committee to scrutinise the Minister's work while he or she sits as a member of the Committee. The Committee staff should prepare a brief for Members so that they are armed to battle effectively in scrutinising the Minister. However, as it is, the Minister would have received a copy of that brief, which would undermine the effectiveness of the process.

⁵⁰ Among the obvious implications would be the question of how significant Wales-only legislation would be dealt with at Westminster. Would, for example, the Committee stage of such Bills be considered by the Welsh Grand Committee or the Welsh Affairs Committee? If the former, then all Welsh MPs would be entitled to attend and the Government of the day, even the present Labour Government with its large majority, could not be sure of easily getting its way. On the health reorganisation a number of Welsh Labour backbenchers in the Commons have severely criticised the Assembly Government's proposals. See the previous report, *Coalition Creaks Over Health: Monitoring the National Assembly September to December 2001*.

⁵¹ *Assembly Record*, 14 February 2002.

⁵² *Ibid.*

“The Government of Wales Act requires the Minister to be a member of the Committee. However, an informal arrangement should be made so that he or she can distance himself or herself from the Committee to this purpose, with a protocol setting this out on paper. The same should be true of policy reviews which is an important and productive role. While Ministers are members of Committees, there is a danger for them and their officials, to influence the content of reports for the Government’s convenience and to promote their own agendas ...

“Before the days of the Coalition, the agreement reached in Committee was to all intents and purposes, a policy decision. That is how it was in the days of the review of post-16 education for example. That is not the case now when the Government has an overall majority. The Minister should step aside from the Committee while policy reviews are carried out. There is no reason why the Minister should not be present to hear evidence and to follow proceedings. However, the Minister should not be part of the process of formulating the report.”⁵³

Responding Mike German, Leader of the Liberal Democrats, observed that if implemented it would result in the Committees’ function being confined to scrutiny:

“I do not agree with removing the Minister from the Committee, as that would not allow the Committee the distinctive role it has at present. The Assembly must try to find a route that is different from that of Westminster. We should have the hybrid role for Subject Committees with a policy-making role. Separating that out would only send us down the route of having a scrutiny committee. One of the Assembly’s strengths is that Committees have had a strong policy-making role, which allows matters to be brought out in the open much more. For example, were it not for the Economic Development Committee’s energy review, I doubt whether the Severn barrage would have emerged as a key issue for debate and discussion by the Assembly.”⁵⁴

The Higher Education Review

The Education and Lifelong Learning Committee Review into Higher Education, published in January, unveiled a radical set of proposals on revitalising the Higher Education sector in Wales. The leading recommendations were that funding should match that of Scotland, the role of the University of Wales should be critically reviewed, a network of clusters of higher Education Institutions should be established, and that the Higher Education Funding Council for Wales should be adopt a more proactive strategic planning role. The most controversial outcome was a suggestion that the federal University was outdated and should be abandoned in favour of a network of free-standing independent universities, with an increased role for the Higher Education Funding Council for Wales.

Publication of the Review raised some questions as to its ownership. To what extent was it merely an expression of opinion by the Committee and to what extent did it reflect thinking within the Assembly Government? There is of course a Government

⁵³ *Ibid.*

⁵⁴ *Ibid.*

majority on the Committee and the Minister, Jane Davidson, through her membership of it was party to the process that led to the production of the report. However, the extent to which its recommendations will be adopted by the Assembly Government will only be revealed later in the year when the Minister gives her official, formal response. Meanwhile the Report generated a good deal of debate, especially within the constituent Colleges of the University of Wales, which was characterised by a good deal of confusion about the provenance and likely implementation of its recommendations. In turn, this reflected an ongoing ambiguity about the role of the Subject Committees in policy development, especially when it addresses a fundamental matter such as Higher Education with such a comprehensive investigation. The final report, published in hard copy as well as on the Assembly's website, runs to 177 pages with 11 chapters and nine annexes.

The Review was begun in March 2000 by the then Post-16 Education and Training Committee. An expert adviser, Professor Leslie Hobson, Deputy Vice Chancellor of the University of Glamorgan, was appointed before the Committee was dissolved following the October 2000 partnership agreement. The new Education and Lifelong Learning Committee decided to continue with the review in November 2000.

Each of the Higher Education Institutions presented evidence to the Committee together with a raft of other relevant organisations. Several Committee meetings were held in private during the final stages when it discussed its conclusions. The report attracted instant controversy over its recommendation that as part of their proposed reorganisation for Higher Education in Wales:

“The Assembly Minister, Education and Learning Wales (ELWa), the Higher Education Funding Council for Wales, and Higher Education Wales⁵⁵ should enter into dialogue with the University of Wales to critically review the appropriateness of the present University of Wales structure.”⁵⁶

Whilst the report did not advocate the abolition of the University of Wales, or the federal structure of the Welsh Colleges⁵⁷, it did support the view that the larger universities should be encouraged to award degrees in their own right. A general view was that this would inevitably lead to the demise of the University of Wales since awarding degrees is its main role. The report states:

‘In June 2001, Cardiff gave notice that consultation should begin for it to exercise its own degree awarding powers. If it decided to do so this would effectively weaken the position of the University of Wales as an overarching organisation. It would make the ‘one nation-one university’ model less viable and it is difficult to see what purpose the University of Wales would then serve, other than to provide a brand for marketing University of Wales degrees. It seems clear that the University of Wales will cease to exist in its present form and in this case the Committee feels that constituent parts would need to be

⁵⁵ Higher Education Wales is a body that represents Vice-Chancellors and Principals in Higher Education in Wales.

⁵⁶ Education and Lifelong Learning Committee Policy Review of Higher Education Chapter 8.

⁵⁷ Aberystwyth, Bangor, Cardiff, Lampeter, Swansea, Cardiff, Newport, and the Institute and National School of Medicine at Cardiff.

rationalised.’⁵⁸

Strong opposition to this approach came from the University of Wales. Its senior Vice-chancellor, Professor Derec Llwyd Morgan, argued:

‘It is remarkable that, in post-devolution Wales, one of the nation’s most cherished and most valued institutions is under threat. It should be obvious that the best engine for necessary collaboration in the 21st century Wales is a revived University of Wales. The federal University has evolved over many years. Its uniqueness continues to lie in its combination of diversity and in its innate network. To reform higher education in a way that could lead to its demise would be foolishly counterproductive. Moreover, the Committee’s advice to the constituent members of the federal University of Wales to seek their own degree-awarding powers flies in the face of its own ideals. The Committee urges institutions to collaborate but academic collaboration depends on two things: firstly on the will to co-operate exercised by academics, individually, departmentally and institutionally; secondly, on a common set of aims or goals. In Wales, excluding only the University of Glamorgan, that set of aims is encapsulated in the University of Wales degree.’⁵⁹

There was uneasiness that the special adviser to the Committee was a Professor from the University of Glamorgan, the sole Welsh University that is not part of the University of Wales. This issue did not figure as highly in the plenary debate that followed on the report as it had in the media. Most members, it seemed, accepted that its role needed to be investigated. However, a few members defended the University of Wales. Plaid Cymru’s Gareth Jones, AM for Conwy, said:

‘We should build on the strong foundations of the University of Wales, and take advantage of the opportunity to forge an effective and efficient future direction, especially following devolution and the establishment of the National Assembly. Perhaps it is easier said than done; we shall see.’⁶⁰

Another advocate of the University of Wales was the Leader of the Conservatives, Nick Bourne:

‘If we were to unscramble the University of Wales, we would lose not only the economic advantage, but also the advantage that we have from its role as an overseas ambassador.’⁶¹

A further key recommendation would erode the role of the University of Wales. The Committee identified that networking and collaboration between Universities was essential in Wales to:

“... overcome the diseconomies of small scale, to provide a wider choice, to raise standards in teaching and research and to create the confidence to compete

⁵⁸ Education and Lifelong Learning Committee Policy Review of Higher Education. Chapter 9.

⁵⁹ Press Release, The University of Wales: a national asset for the 21st century, 15 January 2002.

⁶⁰ Assembly Record, 22 January 2002.

⁶¹ *Ibid.*

in the global market.”⁶²

The Committee proposed that this should be encouraged through the implementation of a revised structure of Higher Education, based on a cluster model. The main clusters would be regionally based and would work with Further Education Institutions within their area. The Committee considered two bodies which could lead the way and co-ordinate this revised structure: the University of Wales and the Higher Education Council for Wales. It decided that the Higher Education Funding Council for Wales would be the most appropriate body to do this and in their recommendations they propose that the Assembly Minister should seek implementation of appropriate primary legislation to enable Education and Learning Wales (ELWa) and the Higher Education Funding Council for Wales (HEFCW) to adopt a more proactive strategic planning role. This is likely to face strong opposition from University Governing Bodies as they could be unhappy with some of their powers being transferred to a Quango. However, the Committee Chair Cynog Dafis said that giving these powers to HEFCW was preferable to giving them to the University of Wales:

“Some institutions made it clear that if the University of Wales went in that direction they would withdraw (from the University).”⁶³

Nevertheless, the proposal that caused most uneasiness during the plenary debate that followed was the recommendation that a research cluster should be centred on Cardiff University and the University of Wales College of Medicine, and that a teaching-led cluster should be based on collaboration between the University of Glamorgan, University of Wales Institute of Cardiff and University of Wales College of Newport. Several members of the Assembly were unhappy that the two lead clusters would be located in south east Wales, to the potential detriment of Higher Education Institutions elsewhere in the country. Dafydd Wigley, AM for Caernarfon, asked the Minister:

“Representatives from the University of Wales, Bangor, raised concerns with several members last week about two statements. The first referred to a research-led cluster being based at Cardiff University and the University of Wales College of Medicine, with the implication that research at other centres will possibly be excluded. You will understand the concern about that. The other point concerns the facilitation of a teaching-led cluster based at the University of Glamorgan, University of Wales Institute, Cardiff and the University of Wales College Newport to promote widening access to e-learning and the provision of all disciplines across Wales through a network of further education franchise colleges. There is concern that that will centralise these facilities at the University of Glamorgan and the other two institutions to the exclusion of Bangor and other places. Will you give assurance on those issues?”⁶⁴

In her response, Jane Davidson was non-committal, merely commenting, “This is the Committee’s report.”⁶⁵ However, Cynog Dafis, Chair of the Committee, had foreseen that this would be a concern amongst Members and addressed the issue in his opening

⁶² *Assembly Record*, 22 January 2002.

⁶³ *The Guardian*, 22 January 2002.

⁶⁴ *Assembly Record*, 22 January.

⁶⁵ *Ibid.*

statement:

“I want to refer briefly to one concern that has been expressed over the past few days, namely that the report favours Cardiff and the south east, especially in terms of research. Nothing was further from the Committee’s intent. Excellent, world-class research is carried out in all parts of Wales, and that must continue and develop further. The cluster model, and especially the recommendation to establish centres of excellence and embryonic research units, is a way of facilitating and ensuring that.”⁶⁶

There was considerable amount of consensus in the Committee and in the plenary debate over the recommendation that the unit of resource for Higher Education in Wales should be at least equivalent to that in England and that the funding gap with Scotland should be significantly reduced over the next few years. Cynog Dafis pointed out that whilst Wales educates six per cent of UK students it only receives three per cent of the funding from research councils. There was agreement also that ELWa-HEFCW should co-ordinate widening access strategies across the sector.

However, motions tabled during the Committee’s hearings, and included in the Annex to this report served as a remainder that the Review had not always run smoothly. There had been great disagreement over the evidence of Dafydd Glyn Jones, from the University of Bangor, who suggested creating a virtual federal college, based at existing Higher Education Institutions within Wales, to promote teaching and learning through the medium of Welsh. A majority of the members felt that some of his views were offensive claiming that they were ‘racist’ and ‘anti-English’. They supported a motion proposed by Huw Lewis (Lab) that resolved that the Committee should disregard certain opinions and proposals within the paper.⁶⁷ The rift that had emerged over this issue emerged again during the Plenary debate when Plaid Cymru’s Gareth Jones stated:

“The annex to the report refers to the clear difference of opinion on establishing a federal college in the context of Welsh-medium education. As a result the report is unconvincing in this matter. There is a danger that the recommendations as they stand, will continue to marginalise Welsh-medium education. Ultimately, the only answer will be a federal Welsh-medium college, funded directly by the Higher Education Funding Council for Wales.”⁶⁸

Huw Lewis (Lab) registered his contrary view, arguing that the issue had exposed a ‘dark side of Plaid Cymru politics’:

“The defining characteristic of Higher Education as regards my constituents in Wales is that they do not experience it. That is what it is all about. This is a test of how serious we are about tackling those problems. All parties, bar one, tackled that problem seriously in this Review and talked about it sensibly. However, it took a long time to talk Plaid Cymru around to taking this issue seriously. It believed that where people studied was more important than

⁶⁶ *Ibid.*

⁶⁷ See the earlier Quarterly report, *A Period of De-stabilisation: Monitoring the Assembly May to August 2001*.

⁶⁸ *Assembly Record*, 22 January, 2002.

whether or not people deserve the opportunity to study at all. It even suggests that the ethnic and national identity of students in Wales should somehow be manipulated so that we could put even more Welsh middle-class kids into Welsh universities as opposed to those people who are excluded from Higher Education opportunities at present. If nothing else, this Review was a lesson in the dark side of Plaid Cymru politics.”⁶⁹

However, the Committee was able to overcome these differences in opinion, due in great part to the competent Chairmanship of Cynog Dafis, to produce a substantial report that if implemented will radically change the Higher Education sector in Wales.

The Nantygwyddon Landfill Site

In July 2000, an Assembly resolution was approved in Plenary which proposed that the Environment, Planning and Transport Committee investigate the Nantygwyddon landfill site in the Rhondda with the assistance of an independent investigator. This provided a further example of an intervention occupying a grey area between the Administration and the Assembly as a whole. In this case the Assembly, meeting in plenary, voted that the Environment Committee should appoint an independent investigator to deal with a vexed and complicated local authority issue. In turn, and by definition, the Assembly Government’s acquiescence was needed. Nevertheless, it was the Assembly as a whole, followed by the Subject Committee, that made the running.

Nantygwyddon is a waste disposal site situated on a hill in the Rhondda valley. Owned by the Council it is managed by Rhondda Waste Disposal Ltd and 3C Waste Ltd from Cheshire. Residents campaigned for the closure of the tip throughout the nineties, believing the pollution from it to be a serious cause of ill health in the area.

When the Assembly was established Plaid Cymru pushed for a full public inquiry into the site. However, the minority Labour Administration, worried about the cost of a full inquiry, preferred an investigation by the Environment Minister assisted by an independent investigator. A compromise solution, suggested by the Liberal Democrats, was for the Environment Planning and Transport Committee to investigate

The Committee’s inquiry combined public evidence-taking sessions in the Rhondda with the appointment of an independent investigator, David Purchon, in November 2000. He was independent in the sense that once the public evidence sessions by the Committee had been concluded, he was left alone to continue his investigations and develop his own conclusions. The report he presented to the Committee in December 2001 was damning. He recommended that the site be closed down over the next two years, and that individual studies be carried out on the effects of the tip on the health of residents.

However, his most controversial and condemnatory comments related to:

- ‘Maladministration’ by the former, Labour-run, Rhondda District Council in

⁶⁹ *Ibid.*

allowing the tip to be opened in the first place.

- The failure of the Environment Agency and Bro Taf health Authority in regulating the tip adequately.

Purchon also claimed that he had had difficulty in obtaining all the relevant files from the Council, commenting:

“How and why did a household refuse tip come to be placed on an inaccessible, bleak, windy, exceptionally wet mountain top relatively close to and above terraces of houses situated on steep-sided narrow valley slopes? I still have no adequate answer. How virtually all files pertaining to design, contracting, supervision and operation of a controversial development can be ‘lost’ is impossible to explain, unless there has been a deliberate effort to destroy records. In view of the mounting controversy about the site in the mid-90s and in the light of my findings, I suspect that a systematic clear-out of files may have been undertaken prior to the demise of the borough council in 1996.”⁷⁰

The Environment Agency also came in for his criticism:

“The public cannot understand why the site was allowed to continue to operate while in such obvious breach, indeed in almost total disregard, of licence conditions. I declare myself not at all convinced by the protestations of agency officials that they could have done no more.”⁷¹

The Environment Agency strongly defended its position:

“There were a number of serious errors and significant omissions in the investigator’s report which was commissioned by the National Assembly for Wales Environment, Transport and Planning Committee.”⁷²

They also criticised the investigation for failing to understand why the Agency did not have grounds to close the site. However, the Committee decided to incorporate the entirety of David Purchon’s recommendations into its own report in February⁷³.

The drafting in of an independent investigator was a new development in the work of the Subject Committees. In this case his report had immediate effect when in December 2001 Rhondda Cynon Taf Council decided to stop sending household waste to Nantygwyddon tip.

Not only did the investigation by the Committee involve the Assembly in what would have usually been a local issue, it also demonstrated how an Assembly Committee can impose the Assembly’s Authority as a national institution on local government and

⁷⁰ Independent investigation into Nantygwyddon landfill site, David Purchon, 2001.

⁷¹ Independent investigation into Nantygwyddon landfill site, David Purchon, 2001.

⁷² Environment Agency Press Release ‘Nantygwyddon: ‘serious errors’ in report but also lessons to be learned’, 25 January 2002. This states, for example, that “the allegation that the Agency chose to withhold information from the investigation was totally false and there was no evidence to suggest that the Agency failed to meet its statutory duties.”

⁷³ Report of the Environment, Planning and Transport Committee into the Nantygwyddon landfill site, document laid before plenary 18 February 2002.

other public bodies. As Adrian Kay concluded:

“The effect of the investigation was to force the involved public bodies to account for their actions to the affected local population, rather than just submitting to the usual general financial and bureaucratic scrutiny. All the meetings for the investigation took place in public and all the evidence collected is a matter of public record.”⁷⁴

Permission for the initiation of an independent investigation can only be given by the full Assembly so any Committee decision to repeat this exercise will depend on cross-party consensus. This case was successful because an Assembly Committee was able to employ an investigator to engage effectively with the problems of a local community and give them a national profile. At the same time the process has weaknesses, in particular lack of power to subpoena witnesses or demand the presentation of documents.

⁷⁴ Kay, A. ‘Effectiveness Through Consensus: The Environment, Transport and Planning Committee’ in J. Barry Jones and J. Osmond (Eds.) *Building a Civic Culture, Institutional Change, Policy Development and Policy Dynamics in the National Assembly for Wales*, IWA/Welsh Governance Centre 2002.

THE LEGISLATIVE PROCESS

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The Procedural Review

Any consideration of the Assembly's law making functions has to focus on primary and subordinate legislation. The report of the Assembly Review of Procedure, published in February 2002 after a year's deliberation, addresses these in separate Chapters. Of course, the topics are inextricably linked especially where one is dealing with new functions framed in post devolution Acts of Parliament.

The division between primary and subordinate legislation is not fixed. There is no clear rule as to which matters have to be dealt with by primary legislation and which may be left to be dealt with in subordinate legislation. Enabling powers can be constructed so as to be highly constrained, limiting the discretion of the person to whom legislative power is delegated to minor and specific matters of detail. On the other hand, they can be wide, providing a bare framework within which that person can exercise broad discretion in developing and implementing policy and even conferring power to change provisions in primary legislation - so-called 'Henry VIII' clauses.

Primary Legislation

(i) The Issues

In dealing with post devolution Bills the Assembly has sought to have the appropriate degree of discretion conferred upon it, and has negotiated with the UK Government, formally through the Wales Office, and informally direct with the relevant Whitehall departments. The broad thrust of the argument has been that wide enabling powers are appropriate to give the Assembly as much scope as possible to develop its own policies.

Negotiation between the Assembly and Whitehall over proposed new enabling powers is therefore a key element in the Assembly's legislative process. On the face of it the task seems daunting because the constitutional position of the Assembly puts it outside the Whitehall policy making process leading to the preparation of a draft Bill. Unlike the Office of the Secretary of State for Wales, the Assembly *as a whole* is not an official copy recipient of any drafts or communications leading up to the publication of a Bill⁷⁵. Nonetheless, the informal processes, underpinned by the Memorandum of Understanding and bilateral concordats with individual Whitehall departments, enable the Assembly to have some influence over the construction of

⁷⁵ A small number of officials and Assembly Ministers may be in a better position than the Assembly as a whole in this regard, being bound by formal obligations of confidence by virtue of their position as Crown servants under the Government of Wales Act. In practice this small group has substantial dialogue with UK Government departments with regard to proposed provisions in UK Government Bills prior to the point when they are made public. Communications from the Assembly up to that point will however represent the views of the administration and its officials and not a "consensus" of the Assembly as a whole, which may not get the opportunity to debate policy until after the Bill is published.

draft legislative provisions before they are published. Once a Bill is published, even though time may be tight, the Assembly's views can be reflected and may be carried into the Bill if necessary by government amendments during its parliamentary passage.

In practice the Assembly's input to UK primary legislation affecting Wales has been more substantial than might have been anticipated given the apparent constraints on communication. Far from simply responding to UK government legislative proposals, the Assembly has promoted specific provisions necessary to give effect to its own policies. The most striking early example of this was the Children's Commissioner for Wales, primary legislative provision for which came first in the Care Standards Act 2000 and then in the first post devolution Wales-only Bill which became the Children's Commissioner for Wales Act 2001. There have been significant parcels of Assembly driven primary legislation in other fields too, such as education and health.

The essentially 'two stage' process (one stage in Wales, the other in Westminster) does, however, produce problems at both the Cardiff and London ends. So far as the Assembly is concerned the main problem is in managing to evolve a policy position on UK policy proposals in time for communication of that position to be effective. This is far less of a problem when the UK Government's aim from the outset is to incorporate Assembly policy in the Bill – as was largely the case in the 'good' examples of the Children's Commissioner, education and health mentioned above.

At the Westminster end the problem is how properly to give scrutiny to provisions in Bills reflecting Assembly driven policy, and the degree to which the outcomes of Assembly scrutiny should be challenged in debate in the UK Parliament. The devolution settlement has created a situation where responsibility for policy making in various fields now rests with the Assembly which has its own processes for consultation and scrutiny.

At the same time, however, a significant part of formal legislative scrutiny remains with the UK Parliament. The Assembly itself is not represented in Westminster. The Secretary of State for Wales is not the Assembly's mouthpiece, either in the UK Cabinet or in the Westminster Parliament. Welsh Members of Parliament will not necessarily agree with the Assembly's policy.⁷⁶ Where a Bill contains both English and Welsh policy the tendency evidenced so far is for debate in the UK Parliament to overlook the Welsh element, or at least pay far less attention to it than to the provisions for England.⁷⁷ When, as now, party political control of government is not the same in the Assembly as in Westminster, a party of opposition in Westminster

⁷⁶ See for example the scathing remarks of Denzil Davies in relation to the Wales provisions at second reading of the NHS Reform and Health Care Professions Bill, *Official Record, House of Commons, 20 November 2001 col 251*.

⁷⁷ See the criticisms made by Jon Owen Jones in this regard in second reading debates on the NHS Reform and Health Care Professions Bill (*Official Record, House of Commons, 20 November 2001, col 261*) and on the Education Bill (*Official Record, House of Commons, 4 December 2001, col. 223*). See also the comments of Ron Davies, speaking in the plenary debate on the Report of the Assembly Review of Procedure (Assembly Record, 14 February 2002) on the dearth of legislative scrutiny given to the substantial Wales clauses in the Education Bill – both at Westminster and in the Assembly subject committee and plenary – effectively alleging that proper scrutiny of the provisions was falling between the two stools of London and Cardiff. Apparently, the key strategy document for Wales, *The Learning Country*, was not available in Westminster at the time of the second reading debate.

may find itself taking an official stance against its own party's position in Cardiff.⁷⁸

(ii) Recommendations of the Assembly Review of Procedure

The Report of the Assembly Review of Procedure acknowledges some of these problems but contains no ready solutions to them. This is not surprising since many of the problems flow directly from the structure of the current devolution settlement, and any proposals for change to that were outside the terms of reference of the Review. The Report does however consolidate and give impetus to a number of themes that have emerged from experience so far.

The Report recognises the reality that new Westminster primary legislation is of "fundamental importance" to the Assembly, and can reduce as well as extend the Assembly's functions. For that reason the Assembly "needs to have the maximum possible input into primary legislation brought before Parliament"⁷⁹, and this needs to happen as early as possible in the process leading to Introduction of a Bill. The UK Government should therefore, wherever possible, publish Bills in draft form⁸⁰ and briefing should be provided to Assembly Members and committees both about the primary legislative process in general and about the content and progress of draft legislation in Westminster and Europe relating to the Assembly's fields of responsibility⁸¹.

Of most significance perhaps is the attempt the Review Group has made to identify some generally applicable convention governing the allocation of new functions to the Assembly. The aim is to help ensure that the Assembly's current functions are not undermined but also to seek to develop new functions in a coherent and consistent way. Having regard to the way in which policy is developed in the separate fields of responsibility of the Assembly, in each case communicating and negotiating with separate government departments and within subject specific and often highly complex existing legislative frameworks, the aim is an ambitious one. The device adopted is the set of "principles" set out in the Report⁸², to be communicated to the UK Government with a view to being adopted as informal rules which will be followed by UK government departments and Parliamentary Counsel as well as the Assembly when considering allocation of functions in new primary legislation.

⁷⁸ Again, see the second reading of the NHS Reform and Health Care Professions Bill, where the Liberal Democrats opposed second reading by way of a reasoned amendment in the House of Commons, thereby proposing to vote down provisions for Wales expressly supported by their Lib-Deem colleagues in the partnership government in the Assembly.

⁷⁹ Paras. 4.1 and 4.2 of the Report.

⁸⁰ Para. 4.9 of the Report.

⁸¹ Paras. 4.8 and 4.10. Para. 4.8 identifies the need to build awareness of Assembly Members about the process of preparation and enactment of primary legislation so as to enable them to make better use of the existing procedural devices under Standing Order 31 to propose and promote primary legislation as well as comment on proposals emanating from government. For this kind of general awareness raising, the Report recommends that briefing be offered jointly by the Presiding Office and the Office of the Counsel General. Briefing in relation to specific legislative proposals should come from the Presiding Office and, significantly, from the Office of the Secretary of State for Wales.

⁸² See Annex v. The principles have their origins in Professor Richard Rawlings' paper *Quasi-legislative Devolution: Powers and Principles* given at the Lord Morris of Borth Y Gest Seminar on 'The Law Making Powers of the National Assembly for Wales' in January 2001, published by the Wales Law Journal/ Law Society Office in Wales in March 2001 and subsequently in *Vol. 52 Northern Ireland Law Quarterly* p 54.

Less dramatically, the Report recommends that certain practices that the Assembly has already developed be given formal status by incorporation into Standing Orders. These include holding an annual debate on the Queen's Speech, remitting Bills of particular importance to the appropriate Assembly subject committee, and plenary debate of the outcomes of the subject committee's consideration. The Report also recommends that Standing Order 9 be amended to refer expressly to UK primary and European legislation as well as secondary legislation as "legislation" upon which the committees may give advice⁸³.

Overall on the subject of primary legislation the Report seeks to hone existing practices and identify steps that will help to increase the Assembly's influence over new primary legislation and enable it to acquire the new functions it needs to give effect to home grown policy. It is silent on the difficult question of representation in Westminster because this was outside its remit, although the need for communication and collaboration between Assembly Members and the key Welsh Committees at Westminster is noted.⁸⁴

Subordinate Legislation

The Review Report states that "subordinate legislation represents one of the main tangible products of the Assembly's deliberations" yet notes "a widespread sense of dissatisfaction with the way subordinate legislation has been dealt with to date."⁸⁵ The following extract summarises the issues that have arisen within the Assembly in relation to its own process for enacting subordinate legislation, both before and during the Review:

"We heard views that the procedures, while elaborately constructed, did little to enhance scrutiny or understanding of subordinate legislation. We believe that subordinate legislation is often seen as technical, predetermined by European or UK legislation, and/or concerned with operational detail. While this perception is at times justified, subordinate legislation can also be a means of establishing and delivering major policy change; and the Assembly and its Members need to make informed judgements about those items which deserve more thorough scrutiny. There is also scope for the Assembly's partners and other outside interests to use subordinate legislation to advance their own causes and interests. The current misunderstanding stems largely from inadequate information and awareness, as well as from the complexity of the procedures themselves."⁸⁶

The Report sets out numerous recommendations as to improvements in the detail of the operation of the current processes, recognising that many of the recommendations

⁸³ Para. 4.12.

⁸⁴ The Welsh Grand Committee and the Welsh Affairs Select Committee. The Report also mentions the Modernisation Committee and the House of Lords Constitution Committee – see para. 4.15. Para. 4.14 welcomes the Welsh Affairs Committee's "inquiry into the drafting of primary legislation in relation to Wales" and commends to it the principles for conferring new functions on the Assembly set out in Annex 1 to the Review Report. It seems however that the project has for the time being slipped into abeyance since the 2001 general election – it remains to be seen whether the Review Report's commendation will help to refocus the Committee's attention on the subject.

⁸⁵ Chapter 5 of the Review Report.

⁸⁶ Para. 5.1

merely consolidate and affirm measures already in hand and that there is a need for ongoing and continuous review of internal practices. The key areas are planning, giving advance information about forthcoming legislation, and tracking of draft legislation.⁸⁷

The Report recognises the desirability of not making constant piecemeal changes and makes the sensible recommendation that instead the Business Committee should draw up a protocol reflecting the recommendations in the Report and should review performance against those recommendations in six months time.

It is important that the Assembly manages its own legislative processes effectively and efficiently. Apart from many other good reasons for doing so, any argument for significant increase in its legislative powers will be undermined if it fails to manage well the powers already conferred on it. However it is equally important to see this particular function in the context of the Assembly's wider range of functions, and to develop understanding of how they fit together and can be used effectively together. The Report recognises this:

“... subordinate legislation should be seen as a tool for implementing the Assembly's policies, rather than an end in itself, and that clearer links are needed between the policy development process and the production of subordinate legislation.”⁸⁸

It also recognises the need to increase awareness both within and outside the Assembly of the potential and role of subordinate legislation⁸⁹.

Enhancing Participation in Subordinate Legislation

The Review considered a number of proposals for enhancing the ability of Assembly Members to generate subordinate legislation. It suggests building on the procedure in Standing Order 29 whereby any Member can propose that subordinate legislation on a particular topic be brought forward. If a motion is approved, the relevant Assembly Minister is required to prepare and present draft legislation giving effect to the proposal. There are difficulties in practice for two main reasons – the dense technicality of many enabling powers, and the lack of sufficient technical advice to enable Assembly Members to bring forward proposals.

The eventual recommendation is that Business Committee should agree a system for allocating 10 minute plenary slots to Members who wish to propose subordinate legislation under Standing Order 29.⁹⁰ The Report however fudges the issue of resources that are needed to enable Members to exploit these opportunities effectively. It recognises that an increase in the number of proposals under Standing Order 29 would be likely to require the support of a dedicated legislation unit in the Presiding Office and that “Assembly Members developing proposals under Standing Order 29 will need access to policy and legal advice”. It then goes on to recommend changes designed to produce an increase in the use of Standing Order 29 without making any

⁸⁷ A list of best practice measures, many already developing, is at paragraph 5.5 of the Report.

⁸⁸ Para. 5.4.

⁸⁹ Paras. 5.9 and 5.12 recommend a series of seminars for Assembly Members and for outside groups.

⁹⁰ Para. 5.11.

clear recommendation that the necessary resources be made available. Such a recommendation would not presumably have been outside the scope of the Review since a specific recommendation is made elsewhere in the Report for increased resources to enable Subject Committees to access a greater range of sources of advice and support.⁹¹ It is hard to see how the Business Committee will be able to implement this recommendation without re-opening and resolving the resources issue.

⁹¹ See para. 6.10.

FINANCE

Adrian Kay, University of Glamorgan

The Assembly Budget

The Assembly's draft budget for 2002-03⁹² promulgated on 18 October 2001 was approved in final form by plenary on 6 December. There were some technical changes involving the assignment of expenditures on certain policies and programmes between different Major Expenditure Groups and the monies allocated to the Rural Recovery Plan were highlighted as a separate budget line. There was a very brief debate in plenary with contributions from the finance spokespersons of the two opposition parties, Nick Bourne and Dafydd Wigley, and a reply from the Finance Minister. The main issues raised were the same as those in the draft budget debate: the level of underspending (*aka* end-year flexibility) and measures to deal with it; expenditure on the Higher Education Sector; and the size of the reserve. The budget was passed with Plaid and the Conservatives abstaining.

The Local Government Revenue Settlement for 2002-03

The other salient feature of the finance area in the last quarter was the announcement on 15 January 2002 of the Assembly Government's Local Government Revenue Settlement for 2002-03. The local government finance cycle is slightly out of phase with the overall Assembly budget cycle. The Assembly's final budget agreed in December had an indicative figure for the revenue grant, which though very close to the figure announced in January was not the same.

The headline figure is that the revenue grant to local government for 2002-03 will be £2,899 million. This compares with a figure of £2,594 million in 2000-01 allowing the Finance Minister to laud an increase of almost 12 per cent over two years or almost 7 per cent real growth over and above inflation. However, the government has not provided a similarly adjusted comparable figure for 2001-02 so the year-on-year increase is not clear. As a guide, the figure announced in December 2000 for 2001-02 was £2,696 million.⁹³ Edwina Hart also reiterated the principle of non-hypothecation and stressed that:

“ ... there is a clear agreement with local government that in return for greater freedom and responsibility to determine their own expenditure on different services, they must deliver on key outcomes in areas that are top priorities for the Welsh Assembly Government.”⁹⁴

The Welsh Local Government Association welcomed the continued commitment against to hypothecation. However, in an analysis of the Finance Report it noted that additional funding provided via the settlement was specifically for new responsibilities facing councils. Moreover, it said that:

⁹² This budget was discussed in detail in last quarter's monitoring report, *Coalition Creaks Over Health, Monitoring the National Assembly September to December 2001*.

⁹³ Assembly press notice 12 December 2000.

⁹⁴ Assembly Government Press Release, 15 January 2002.

“... this underlying increase has to meet the cost of all pay and inflation increases and – as things stand - the shortfall in teachers’ threshold pay and the increase in councils’ contributions towards teachers’ pensions. There may be little left for any real growth or improvement in services. The Association will continue to lobby on teachers’ threshold pay.”⁹⁵

From the perspective of the overall Assembly budget, the grant to local government is interesting on a number of points. First is its size; the revenue support grant accounts for approximately 28 per cent of the Assembly's budget. Only health is bigger. Secondly, the Assembly does not spend this money. It is distributed to local authorities as unconditional block grants, that is they are not ring-fenced for any particular purpose (or in the vernacular of government, hypothecated). However, the extent to which this translates into genuine freedom may be judged by the Hobson's choice offered to local government by Edwina Hart:

“I want to make it absolutely clear that revenue settlement resources are not earmarked by the Assembly for any particular purpose. There is a clear agreement with local government that in return for greater freedom and responsibility to determine their own expenditure on different services, they must deliver on key outcomes in areas that are top priorities for the Welsh Assembly government.”⁹⁶

This suggests that Edwina Hart is solicitous about how the sizeable overall grant to local government is actually spent and even if the grant is unconditional, the continued freedom to spend it is plainly not. The impression is reinforced by the policy agreements between the Assembly and local government which are in their first financial year of operation.⁹⁷ Though these are non statutory and are far from being the equivalent of hypothecation, they are suggestive of a centre with clear expectations of how the money will be spent.

Two views about the future of the fiscal relationship between the Assembly and local government can be discerned. The first holds that the Finance Minister is right to be exercised by how nearly a third of the Welsh block is spent. The Assembly should assert itself more clearly as a national political institution vis-à-vis local authorities by increasing the proportion of specific grants in the funding of local government. The alternative view is that the Assembly should resist the temptation to micro-manage because this spoils the beneficial effects of decentralising spending decisions. For example, local bodies have greater knowledge of the needs of the populations which will benefit from the public expenditure.

Local government finance is interesting on a third point. The considerable increases in the overall Welsh block, and local government in particular, would seem to be evidence to reject the hypothesis that the Assembly would use its power in funding

⁹⁵ WLGA, Briefing Note: *Local Government Funding in 2001-02 and 2002-03*, 16 January 2002.

⁹⁶ Assembly press notice, 'Edwina Hart confirms step-change in funding for Local Government in Wales', 15 January 2002.

⁹⁷ For a more detailed discussion see the local government chapter by Alys Thomas, Martin Laffin and Gerald Taylor in, *A Period of De-stabilisation: Monitoring the National Assembly May to August 2001*, IWA, September 2001.

local government to indirectly raise revenue by squeezing grants to force council tax rises. This conclusion is, of course, limited to the early years of the Assembly and will need to be revisited in the event of fiscal restraint.

The New Formula for Distributing Local Government Expenditure

The large increases in the revenue settlement have meant that the operation of the new formula for allocating the overall grant between local authorities has been relatively smooth in its first two years.⁹⁸ The Standard Spending Assessment (SSA) is the amount of revenue, net of the police grant paid by the Home Office, which the Assembly considers is appropriate for each authority to spend in providing a common level of service (consistent with the overall revenue grant figure). The new formula is a sophisticated regression which gives greater weight to indicators of social deprivation and measures of population sparsity than its predecessor.

One of the factors which brought about the introduction of a new formula was the evidence that SSAs and actual expenditures were significantly out of line (and its corollary of differential tax levels) after the 1996 reorganisation of local government and various ad hoc adjustments to the previous formula. A guiding principle in development of the new formula was that there should be a 'closeness of fit' between actual expenditure and that predicted by the calculation of SSA: something which the new formula essentially satisfies. However, to maintain this relationship, actual spending will have to closely trail the SSA level calculated by the formula. The credibility of the formula may rely on the centre insisting to a great degree on how the revenue grant is spent.

In terms of the debate over a possible Barnett replacement, the SSA formula is an example of an inter-governmental fiscal transfer arrangement which is based to some extent on need. Though not without some controversy, the new formula has thus far proved workable in a manner acceptable to both politicians and civil servants. However, it also shows that the introduction of an objective, transparent and needs-based formula to calculate an unconditional block grant to a lower level of government will tend to precursor how that grant is spent. By avoiding a needs-based allocation the Barnett formula does not contain such an obvious distribution of the Welsh block between policy areas.

⁹⁸ The potential financial problems created for authorities by the redistributive effects of the new formula have been further mitigated by the transitional damping grant that is in place for three years to mitigate against large swings in a particular authority's financial position.

RELATIONS WITH LOCAL GOVERNMENT

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

During this period Edwina Hart, the Minister for Finance, Local Government and Communities, together with local government representatives put up a united front in defence of a 'Welsh way' of doing business. In January she welcomed the publication of an independent research project showing that Welsh unitary local authorities were performing at least as well as their English counterparts, contrary to the impression given in recent Audit Commission reports).⁹⁹ At a meeting with the Welsh Local Government Association in early February she praised co-operation between the Assembly and the Welsh local authorities:

“You may be asking yourself whether all this closeness and co-operation actually works. I am well aware that there are views that we in Wales are lacking in vigour, in discipline and innovation. I deny that. In working closely together, we will continue to challenge and check each other - in the closeness of Wales, any serious problems tend to become public knowledge quite quickly, and success is quickly shared.”¹⁰⁰

Local Government Targets for Service Delivery

One instance of her point was an agreement announced in February on service delivery targets for improving education, social care, the environment and transport. She stated:

“I have now agreed the terms of policy agreements with all 22 local authorities in Wales. These agreements are an innovation unique to Wales and a completely new way of improving the quality of people's lives. The agreements focus on what results local councils are aiming to achieve in key areas, while giving councils themselves more freedom to determine the best way of achieving them ... This is part of the devolution dividend in which we take advantage of the particular circumstances of Wales. Having a national government and 22 local authorities allows a sharing of objectives which would not be possible elsewhere in the UK.”¹⁰¹

The targets are aimed to ensure:

- The proportion of 11-year-olds achieving at least Level 4 in the Core Subject Indicator will rise from 62 per cent today to 67 per cent by 2004.
- The proportion of 15-year-olds achieving five or more A* to C (or their vocational equivalents) will rise from 49 per cent to 54 per cent by 2004.
- Fewer children will leave full-time education without qualifications.

⁹⁹ Local and Regional Government Research Unit, *A Comparison of Local Authority Performance in England and Wales*, Discussion Paper, 29 January 2002: Assembly Press Release 31 January.

¹⁰⁰ *Western Mail*, 4 February 2002.

¹⁰¹ Assembly Government Press Release, 19 February 2002.

- No child ‘looked after’ by the local authority and no child on the child protection register will be without an allocated social worker whom is providing a service appropriate to the child’s need, and no child in care on their sixteenth birthday will be without a suitable plan for their continuing care.
- More people with physical disabilities, mental health problems or learning disabilities will be helped to live at home.
- Care for elderly people will reflect a better balance between care to enable them to live independently at home and residential or nursing care.
- The proportion of household waste recycled or composted will rise from 7 per cent today to 16 per cent by 2004.

• **The Local Government Policy Paper**

The Department of Local Government, Transport and the Regions White Paper *Strong Local Leadership - Quality Public Services* was published in December 2001. It contains no proposals for Wales. Edwina Hart, Minister for Finance, Local Government and Communities, had made the decision that Welsh proposals would be developed separately, allowing the Assembly Government to take a discrete and selective approach to the contents of the paper.¹⁰² The paper includes a promise of moves towards a prudential borrowing regime, greater freedom to trade and charge, an attack on the regulation and bureaucracy that act as a constraint on local authorities and a commitment to greater decentralisation by Government. The Welsh Local Government Association expressed strong reservations about the concept of ‘earned autonomy’ of rewards and freedoms for the best performing authorities. However, at the same time it commented:

“ ... the language and tone of the English White Paper is supportive of local government and it seeks to build a mature relationship between elected tiers of government.”¹⁰³

When the Assembly Government publishes its Local Government Policy Paper it will set out for the first time within a single policy document a comprehensive vision for the future of local government in Wales. At the end of January an advance paper presented to the Local Government and Housing Committee set out the main themes as follows¹⁰⁴:

- **‘The Vision for Local Government**
The policy paper will ‘*reflect the mature and developing relationship between local government and the Assembly*’, highlighting the aims of enabling communities and the partnership to create strong and vibrant communities in Wales.

¹⁰² Comments made by Edwina Hart, University of Glamorgan-Joseph Rowntree Conference on Assembly-Local Government Relations, November, 2001.

¹⁰³ WLGA Co-ordinating Committee Papers, 25 January 2002.

¹⁰⁴ Local Government and Housing Committee Paper, 30 January 2002.

- **Community Leadership by Local Government**

The policy paper will reaffirm the key role for local government as community leaders and in developing community strategies which will provide the overall framework for all other plans and the focus for partnership working. The concept of community planning, with its emphasis on partnership, will increasingly become the 'norm' for the way in which local government takes forward policy and service development and action to address local priorities.
- **Working Together for Better Services in Local Government**

The Wales Programme for Improvement (WPI) will be the central focus for achieving the delivery of high quality public services. The paper will emphasise voluntary joint working with other authorities and other organisations to plan and deliver services and address regional issues. It will highlight examples of good practice. There will be a commitment to support local government in the concept of the local government 'family' helping each other through the sharing of good practice, peer support and provision of central expertise. Assembly support for the funding of a local government data unit, equalities unit and procurement unit is a distinctive Welsh initiative.
- **Reducing the Bureaucratic Burden on Local Authorities**

The paper will propose a coherent framework for the production of plans and develop a common language of planning and that the National Assembly should focus its requirements on high level strategic plans and key measures of actual results. The concept of policy agreements¹⁰⁵ will be developed potentially to extend to reflect both national and local priorities and to address authorities' actions to improve their own capacity to deliver better services. The policy paper will contain a commitment by the Welsh Assembly Government to review and reduce red tape in the form of consent regimes, whereby local authorities have to seek the Assembly's approval before they can carry out a particular action.
- **Democratic and Accountable Local Government**

There will be plans to increase voter participation, starting with encouraging and enabling more people – particularly young people – to become involved in local authority decision making, and the development of e-democracy. It will refer to the work of the Commission on Local Government Electoral Arrangements and to initiatives to increase diversity among elected members. The paper will include proposals to bring forward publication dates for local authority financial statements and a review of the Bellwin scheme (which makes support available to local authorities towards the costs incurred in emergencies).
- **Partnership**

The paper will refer to the ongoing role of the Partnership Council and to the developing agenda with all of its membership.

¹⁰⁵ See previous IWA Monitoring Reports.

The Policy Paper will also set out plans for the financing of local government as follows:

- **Revenue Funding-** A commitment to the continued non-hypothecation of funding and the continuing development of the revenue formula in conjunction with local government.
- **Capital Funding-** A commitment to introduce the prudential borrowing system and simplify the exemption procedures for local authority controlled companies.
- **Local Taxation-** This will set out plans for council tax revaluation in Wales, the development of a form of local business rate and the introduction of a rate relief scheme for small businesses.
- **Fees and Charges-** there will be a commitment to review fees and charges set by the Assembly and where practicable devolve responsibility for their setting to local authorities. A general power to charge for discretionary services will be introduced.
- **Community Councils-** A commitment will be made to work with interested parties to develop guidance to promote the resolution of the issue of ‘double taxation’. There will also be a review of the capital borrowing approval system for community councils. Community councillors will be able, should they choose, to authorise payments by their council using electronic methods.
- **Funding for Housing-** This will set out plans for a simplification of the housing finance system in Wales, and in particular the Housing Revenue Accounts.

Future of Public Services in Wales

In December the Local Government and Housing Committee received evidence on the future of public services in Wales from the Welsh Local Government Association. Its paper, which had been tabled at the October Partnership Council, noted that there is now an increased expectation from both public and Government that public service will continuously improve. Those with local democratic accountability will be at the forefront of change thus local government is the key to unlock the changes that are desired by local communities. The paper was critical of continual structural reform:

“The key point is to take as the starting point our existing local structures and make them work better.”¹⁰⁶

In his evidence to the Committee, the Association’s leader Sir Harry Jones, stressed that local authorities should not be seen as agents but partners of the Assembly. The delivery of services should be left to those who do it best, the local authorities. As for the Assembly, it should focus on its core role of providing a strategic overview. He reiterated the Association’s concerns about the proliferation of regional plans for service

¹⁰⁶ WLGA Paper, *The Future of Public Services in Wales*, October 2001.

delivery, calling for no further Assembly Sponsored Public Bodies be set up and for a streamlining of plans and initiatives.

The Welsh Local Government Association paper presented a series of recommendations for the future of Welsh public services:

Governance and Politics

- Each public body will be reviewed at least once every 5 years. The regular review will also check governance, accountability, and responsiveness to the public and partner organisations, and make tough recommendations for action if there are signs of weakness; and
- Any future proposal to set up a new public body will have to satisfy the Executive's criteria and be tested against alternative delivery options. A public body will only be set up if there is an absolutely clear and widely recognised need for one.

Governance and Policy

- To engage through the Partnership Council to examine the proliferation of central government initiatives and plans where they are endangering the exercise of local leadership;
- To seek from the Assembly a less 'compartmentalised' approach to the development of its own programmes and the necessary strategic linkages to ensure greater clarity of purpose across the public sector;
- To seek the full support of all public bodies in Wales to engage in community planning and examine extending the duty to participate in the process which is currently being considered in Scotland;
- To put real investment into the community planning process as the key methodology to regenerate local communities. This must be an equal commitment from Local Government and the Assembly;
- To use the 22 community plans as the building blocks for the Assembly's strategic plan in Wales.

RELATIONS WITH WESTMINSTER AND WHITEHALL

Mark S. Lang, Welsh Governance Centre, and Nia Richardson, IWA

More Powers for the Assembly

The devolution settlement again came under the spotlight during this quarter as UK politicians of differing persuasions set out their opinions on whether and when the National Assembly should gain more powers. In a speech at the University of Glamorgan in December 2001, the former Secretary of State for Wales and Attorney General Lord Morris broadly restated the official Labour Party line that the Assembly should prove itself by using its present powers before it can think of extending them:

“The cry for primary legislative powers now would be more persuasive if the existing powers of creating secondary legislation had both been well used by the Assembly and had been demonstrated to be insufficient ... Has the Assembly and its members given itself enough sitting and thinking time to evolve and formulate policy?”¹⁰⁷

However, Lord Morris was highly critical of the progress to date on meeting this test. He said that individual backbench AMs were not devoting enough time to their legislative role, and that Assembly Ministers left too many decisions to their civil servants. Looking at a survey of legislation passed in Cardiff during its first year "only one or two" statutory instruments have differed from what was drafted in Westminster.¹⁰⁸ He also warned that when the time did come for the Government to review the powers of the Assembly the basis for evaluation should be premised on "present need" rather than the "historical reasons" that lead to the different models being set up in differing parts of the union in 1999.¹⁰⁹

However, in a Welsh debate in February, Lord Griffiths of Fforestfach, who headed Margaret Thatcher's policy unit during the 1980s, declared unequivocally the Assembly should have full legislative powers. He opened the debate by noting benefits devolution had brought to Wales. These included the new formula the Assembly uses to allocate the £3 billion grant to local authorities, the fact that the Assembly is much more open and transparent in its deliberations than the old Welsh Office, and how the Assembly provides a symbol for an increasing national identity for Wales. He then identified problems the Assembly was experiencing in progressing legislation:

“First, in the current Session of the Assembly, the Administration asked that four Welsh Bills be included in the Queen's Speech. None of them was successful. Secondly, although the Subject Committees of the Assembly have an explicit policy development role, they have no real way of ensuring that the results of that role are fed into Westminster policy. Thirdly, new primary legislation passed at Westminster can reduce as well as increase the Assembly's powers. The extent of secondary legislation arises from Bill to Bill and is at the

¹⁰⁷ Lord Morris, *The Development of Welsh Political Institutions over Fifty Years*, speech at the University of Glamorgan, 4 December 2001.

¹⁰⁸ *Ibid.*

¹⁰⁹ Lord Morris *op.cit.*

discretion of the department in London that sponsors the Bill.’¹¹⁰

Lord Griffiths asserted that the only solution for these problems was for the Assembly to be given full legislative powers:

‘I recognise that some will argue that the Government of Wales Act 1988 could be implemented more effectively if draft Bills were published, if there were improved procedures for influencing primary legislation and if Ministers gave more notice so that committees could scrutinise legislation more effectively. I have no doubt that those steps would be helpful. In my experience, however, the sheer pressure of deadlines makes it practically difficult to implement such proposals. I have therefore reached the conclusion that – even if the proposals were partly implemented, and I cannot see how they could ever effectively be full implemented – there will remain a strong prima facie case for us at Westminster to revisit the issue and to amend the Act to give primary legislative powers to the Assembly in spheres that are currently devolved.’¹¹¹

In the debate that followed, most of the participants agreed with most aspects of Lord Griffiths’ analysis. There was also support for his call for an annual debate to be held on Wales in the House of Lords.

Welsh Affairs Committee

The Welsh Affairs Committee in the House of Commons is currently carrying out a review of the operation of Objective One funding. It is considering:

- The inter-relationship between the different layers of Government involved in delivering Objective One in Wales: the National Assembly, the UK Government and the European Commission.
- What is likely to happen after Objective One is over.
- The role of the Treasury.

Three evidence-taking sessions have been held. One took place in Brussels where members of the Committee heard from Manfred Beschel and Philip Owen, officials from the Directorate General responsible for Regional policy in the European Commission.

Another session took place in Cardiff with the Secretary of State for Wales, Paul Murphy MP and the First Minister Rhodri Morgan. The Committee has also met officials from the government Offices covering the English Objective One programmes in Merseyside, South Yorkshire and Cornwall.

Following the meeting between the Committee and European Commission officials members came back concerned about what will happen to Wales’s most deprived areas once the current round of European Funding comes to an end in 2006. As

¹¹⁰ Hansard, House of Lords, 22 February 2002.

¹¹¹ Ibid.

enlargement of the European Union will substantially decrease the amount of aid Wales will receive in the future the Committee will recommend that Wales should start planning now for the loss of Objective One status in four years time.

House of Lords Inquiry

The House of Lords' Select Committee on the Constitution is currently carrying out a review on 'Devolution: inter-institutional relations in the United Kingdom'. The Committee's intention is to:

- Assess the system of inter-institutional relations as it presently is.
- Consider how well it works and how it is developing.
- Suggest what changes might be made, particularly at United Kingdom level, to improve its working and how well it might respond to future challenges.

The review intends to look in detail at the role each legislature plays in scrutinising inter-governmental relations and at the nature of the relationship between the legislatures in the United Kingdom. Furthermore it will examine the relationships the devolved administrations and legislatures have with the European Union.

The Deputy Prime Minister John Prescott was the first witness to appear before the inquiry at the end of February when he agreed that the Assembly can expect to see its powers extended in future. He also said that the Government had no intention at this stage in replacing either the Secretary of State for Wales or Scotland, adding:

“With Wales there is so much legislation being done here [Westminster].”¹¹²

The Select Committee will visit the National Assembly on 27 May when it is anticipated that First Minister Rhodri Morgan will give evidence. As part of the review, the Committee will also be considering the roles of the Secretaries of State for Scotland, Wales and Northern Ireland. Since the devolution settlement there has been an on-going debate about whether Wales still needs a representative in the British Cabinet. In February, for instance, Lord Walker, a former Conservative Secretary of Wales told a meeting of the Cardiff Business Club that the position had already become less significant since devolution. Devolution, he said, had ‘diluted the voice of Wales at a UK level’:

‘The Secretary of State for Wales is no longer a powerful figure in the British Cabinet, outside it, or within Wales. I believe this is bad for Wales and not to the benefit of the country. It is sad that we no longer have a Secretary of State for Wales with power and authority in the British Cabinet.’¹¹³

¹¹² *Western Mail*, 28 February 2002.

¹¹³ *Western Mail*, 12 February 2002.

RELATIONS WITH THE EUROPEAN UNION

NIA Richardson, IWA, and Mark S. Lang, Welsh Governance Centre

The Euro

Two debates on the Euro were held in the same plenary session in early January.¹¹⁴ Dafydd Wigley (PC) initiated a minority party debate on the Euro whilst Mick Bates (Lib Dem) led a short debate on the same subject. Dafydd Wigley's motion noted the importance of the UK entering into the single currency at a rate of exchange that is favourable to Wales and other UK nations and regions, and called for an assurance that a referendum would not be held on the same day as the National Assembly elections in May 2003. The motion shied away from recommending joining the Euro in the near future, reflecting the mixed opinion that exists within Plaid Cymru on this subject. At the same time Dafydd Wigley's opening statement made clear Plaid Cymru commitment in principle:

'Given that so much of Britain's trade is with the euro-zone countries – with 71 per cent of Wales's exports going to the European Community – we feel that we should share the same currency and thus promote Wales' manufacturing, agriculture and tourism industries.'¹¹⁵

Labour Party Members were also in favour of joining the Euro, but did not move away from the UK Labour Government's standpoint that Britain will only join when their own five economic tests have been met. The Conservatives opposed the Euro with Alun Cairns arguing that it would be harmful to the UK and Welsh economies:

'The eurozone has higher unemployment, higher inflation, lower inward investment and lower growth rates compared with our economy – even the Welsh economy.'¹¹⁶

The Liberal Democrats were the only party to unequivocally demand early entry into the Euro. Their leader Michael German, argued,

'We believe that it is good for Wales. With £2 billion of imports from the European Union, and £4 billion of exports, annually, from Wales to the eurozone, it is clearly in our interests. We want an early referendum; we want to have that trigger started, as we believe that it will bring economic benefits. The sooner we have a referendum, hopefully, the sooner we will join.'¹¹⁷

On the issue of the timing of a referendum, initially, the Labour Party tabled an amendment which provided the assurance that Plaid Cymru sought. However, this was later withdrawn. During the debate Elin Jones (PC) commented:

"This is the first time that the Labour Party has withdrawn all its amendments to a motion. The original amendments were slightly clumsy but we have seen

¹¹⁴ Assembly Record, 10 January 2002.

¹¹⁵ *Ibid.*

¹¹⁶ *Ibid.*

¹¹⁷ *Ibid.*

clumsy amendments by the Labour Party before. Therefore, why is it that I could not help but think that someone in Millbank, or Peter Hain perhaps, had seen amendment 7 in the name of Andrew Davies, which was a clear statement that the two votes should not be held simultaneously, and had insisted that the amendment be withdrawn along with every other amendment in order to hide Labour's embarrassment regarding this issue?"¹¹⁸

In introducing his debate, Mick Bates called on the UK Government to provide more information to the public. He suggested that they replicate the £6 million campaign which warned the public about the Millennium bug. He said the Euro merited a campaign on a similar scale:

"Delaying entry means that vital areas of our economy will suffer. Every year, British firms selling to Europe spend £4.5 billion dealing with the costs of having a separate currency. That is a tax of £12 million every day while this government dilly-dallies, waiting to decide."¹¹⁹

The First Minister's supported joining the Euro but repeated the UK Labour Government's commitment to joining only when the economic conditions were right:

"My opinions on the Euro are probably similar to yours [Mick Bates]. I take the simple view that if it is good for the Welsh economy – and I believe that it is – and if the rate is right, then we should attempt to lock in at that rate, not peg it but lock it."¹²⁰

European Commission White Paper on Governance

A draft response to the European Commission's White Paper on Governance was presented to the European and External Affairs Committee¹²¹ by the First Minister at its meeting on 13 February 2002. The draft response made nine main points:

- The Assembly Government welcomes the spirit of the Commission's initiative to examine governance in the European Union. We agree that improvements cannot be made by the Commission working alone and we are a willing partner in taking forward this work.
- **The five principles of good governance** – openness, participation, accountability, effectiveness and coherence – are sound and in many respects mirror the Assembly's approaches to governance in Wales. Membership of the European Union has many benefits for Wales and has a practical impact on our lives. The different parts of the European Union - its members and its institutions - have a role to play in communicating with our public about the decisions taken by the EU and their practical impact. Participation is vital if the EU is to connect with people's lives and early consultation is at the centre of this principle. It is important that people understand clearly where responsibility for decision making

¹¹⁸ Assembly Record, 10 January 2002.

¹¹⁹ *Ibid.*

¹²⁰ *Ibid.*

¹²¹ The addition of 'External' to the name of the European Committee was agreed at a plenary session on 30 October 2001.

lies and why those decisions are made.

- **Better involvement** – we encourage the Commission to think about how it communicates with the general public as well as regional and local authorities. The Internet and the EU web-sites have helped make information much more accessible and we support the Commission's ambitions to exploit fully new technologies. Making human contact with the Commission can sometimes be frustrating, especially for organisations not based in Brussels. We encourage the Commission to emphasise a policy of accessibility among its staff and a general awareness of the value of responding positively to public enquiries.
- **The style and language of communications** should be clear and straightforward. Some documentation is needlessly difficult to understand. If a reader cannot understand the text then it is usually the text, and not the reader, which is at fault. Does the Commission employ the right kind of people to do this work (i.e. people skilled at sub-editing)?
- Wider, earlier consultation should help generate **better legislation**. Legislation should only be proposed when there is a clearly identified need for it. It should be kept as simple as possible and allow sufficient flexibility for local circumstances to be taken into account.
- **"Tri-partite agreements"** – this represents an intriguing idea if it can be made to work. More regional and local variation and input to policy would be welcome in principle and could make the Union seem more responsive and relevant. Any plans should allow a significant element of 'regionalisation' for them to be worthwhile. They should be 'light touch': a heavily bureaucratic approach will make them unattractive at regional level where resources are slim. We encourage the Commission to bring forward more detailed proposals.
- The **Committee of the Regions** has a significant role in reflecting regional opinion on Commission proposals. We support the plan to consult with it at an earlier stage ahead of proposals appearing in published form.
- **Consultation** is the central mechanism for ensuring that interested partners get their voices heard during the policy formation stage. Some Commission consultations are wide-ranging and exemplary – such as the one underpinning this governance exercise – but often they are ad-hoc and arbitrary. To this end we strongly support the idea of a Code of Conduct that sets out minimum standards for the Commission to follow in its consultation procedures. This should include the maintenance of an updated central register of organisations that should be routinely consulted on initiatives.
- **Better regulation** - We believe in simplicity. Legislation should only be introduced when it is really needed. It should be kept as simple as possible. Existing legislation should be simplified where it can be. Less is best. Alternatives to regulation should be considered where possible, that is, codes of practice, peer review, and bench-marking.
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INTERREG III Wales-Ireland Programme

On 11 February 2002 the Assembly First Minister Rhodri Morgan and the Irish Taoiseach Bertie Ahern launched a £40 million joint programme to stimulate sustainable development in West Wales and Eastern Ireland. The new INTERREG III Programme was developed jointly by the Assembly and Irish Governments, in collaboration with outside interests in both Wales and Ireland.

The European Commission approved the £40 million joint programme, which is financed under the INTERREG Community Initiative, in November 2001. The money is designed to stimulate the economic, social and environmental development of west Wales and eastern Ireland, by assisting collaborative projects. It follows the successful completion of the INTERREG II Wales-Ireland programme in 2001.

The Community Initiative INTERREG III aims to stimulate inter-regional co-operation in the European Union and its border regions. It is financed by the European Regional Development Fund (ERDF). The Ireland/Wales Programme covers Carmarthenshire, Ceredigion, Conwy, Denbighshire, Gwynedd, Pembrokeshire and Ynys Mon in Wales and the counties of Dublin, Kildare, Meath, Wicklow, Carlow, Kilkenny, South Tipperary, Waterford and Wexford in Ireland.

The priorities of the Programme are firstly to encourage the economic, social and technological development of the cross-border area and secondly to achieve sustainable growth by enhancing the overall quality of the cross-border area. It covers business and enterprise development, rural development, human resource development, communications in technology and transport, marine and coastal development and culture, heritage and tourism.¹²²

¹²² Assembly Government Press Release, 11 February 2002.

POLITICAL PARTIES

John Osmond, IWA

A focus of attention for the parties during this period was the Ogmere Parliamentary by-election, held on 14 February. Both Labour, which comfortably held on to the seat, and Plaid Cymru, which pushed its percentage share of the poll from 14 per cent at the previous general election to 22 per cent, claimed success. However, the low 35 per cent turn-out meant that little could be read into the result so far as long-term trends were concerned. Win Griffiths, Labour MP for the neighbouring Bridgend seat, reflected a general view in his party when he commented immediately after the result was announced:

“Plaid did hit us hard on the miners compensation issue and they threw everything at us on the steel issue. Having done all that they haven’t improved on their Assembly result here and I think that the evidence is that Ieuan Wyn Jones’ leadership is weak and that the Plaid bandwagon has run out of steam.”¹²³

This assessment failed to acknowledge growing evidence that differential voting between Assembly and Westminster elections is likely to be a permanent feature of the Welsh political scene. Research conducted by the Institute of Welsh Politics at Aberystwyth reveals that the shift in voting behaviour registered at the first Assembly election in 1999 is likely to be sustained at the Welsh level. A representative sample of those voting in 1999 responded that had they been voting for Westminster they would have repeated the 1997 general election result. Equally a representative sample of those voting in the 2001 general election indicated that had they been voting for the National Assembly that day they would have replicated the 1999 result.¹²⁴

Table 1: Ogmere By-election Result

	Votes Cast	%	Change since the 2001 general election
Labour	9,548	52	-10.09
Plaid Cymru	3,827	20.8	+6.79
Liberal Democrat	1,608	8.7	-4.03
Conservative	1,377	7.5	N/A
Socialist Labour	1,152	6.2	N/A
Green	250		

The Ogmere by-election was notable for the emergence for the first time of the Socialist Labour Party as an electoral force in Welsh politics, and for the Liberal Democrats placing the Conservatives in fourth position. So far as the two main parties was concerned, however, the result was neutral.

Plaid Cymru drew comfort from its remaining the main opposition force to Labour. The by-election had come at a difficult time for the party. In January two more senior

¹²³ *Western Mail*, 15 February 2002.

¹²⁴ The detailed statistics will be published by the Institute of Welsh Politics in June 2002.

figures in the Assembly, former leader Dafydd Wigley and policy director Cynog Dafis joined Phil Williams, the veteran AM for South East Wales, in announcing they would not be seeking re-election in May 2003. All three are in their late 50s or early 60s and quoted age as a reason. However, Phil Williams, who had had announced his departure before Christmas, also suggested that the combination of the Assembly's lack of power together with the Lib-Lab Coalition's domination of the Committees was undermining consensual policy making. Dafydd Wigley, said he wanted to give a clear run to Ieuan Wyn Jones, who had replaced him as leader a year before, adding:

“Thirty years of hitting your head against the brick wall of the British political establishment can damage your head more than the wall.”¹²⁵

Cynog Dafis highlighted the fact that as a List member he would have to find a territorial seat to fight to be sure of being returned in 2003 and did not relish that prospect.¹²⁶ Whatever the reasons, their collective departure undoubtedly dealt a body blow to Plaid Cymru's leadership in the Assembly, undermining its aspirations to become the majority party in 2003. It is not short of talented younger politicians, the new MP for Carmarthen Adam Price being a notable example. But they will take time to get established. Meanwhile Ieuan Wyn Jones' has had an extremely difficult first year as leader with a generally hostile verdict given by the press and media. For instance, in response to the retirement announcement, the Labour-supporting *Welsh Mirror* had a field day, running a banner front-page headline: *Dead and Buried – Plaid Cymru finished as a political force.*¹²⁷

This interpretation was assisted by a number of defections from Plaid Cymru in different directions. Gwilym ab Ioan, a former Vice-President in Ceredigion, and Gwilym Euros Roberts, former chairman of Gwynedd County Council's Planning Committee, left to join the Welsh Independence Party; while Guto Bebb, a former constituency chairman in Caernarfon, joined the Welsh Conservatives, becoming their standard bearer in the Ogmere by-election. Such movements revealed a central difficulty Plaid Cymru has to face in uniting its supporters in north and west Wales with those in the south and east who tend to have different priorities. Many of Ieuan Wyn Jones' problems stem from this long standing dilemma which has been given renewed impetus by the party's emergence as a mainstream force within the National Assembly.

There were other significant party defections during this period. In January 2002 a long-standing Conservative councillor in Pembrokeshire, Mary Megarry, defected to the Liberal Democrats declaring that, “Unfortunately under Iain Duncan Smith, the Conservative Party is not one I recognise nor feel at home with.”¹²⁸ She had been the sole remaining Conservative on Pembrokeshire County Council - in the previous September her three fellow Group members had left to join the ruling Independent Group. On the eve of the Ogmere by-election Ceri Evans, a former ward party chairman in Rhodri Morgan's Cardiff West constituency and a founder of the radical pressure group Welsh Labour Action, left the party to join Plaid Cymru. He said:

¹²⁵ Plaid Cymru Press Conference, Cardiff, 8 January 2002.

¹²⁶ *Ibid.*

¹²⁷ 9 January 2002

¹²⁸ *Western Mail*, 10 January 2002

“I increasingly feel that Welsh politics has reached an important moment of choice. New Labour has decided to play dirty and Plaid Cymru is unsure how to respond. It is becoming ever clearer that that launch of ‘Welsh Labour’ under Rhodri Morgan’s leadership has been largely a rebranding exercise. At a British level, Tony Blair has shown that New Labour is determined to follow strictly neo-liberal economic policies. This approach is directly damaging to a peripheral nation like Wales, with its weak economy and consequent over-reliance on the public sector.”¹²⁹

¹²⁹ *Western Mail*, 12 February 2002.

PUBLIC ATTITUDES

Denis Balsom, Welsh Governance Centre, Cardiff University

A poll published by BBC Wales in January 2002 was the first to report a majority of opinion in favour of joining the European common currency, the Euro (see Table 2).¹³⁰ If those who would not vote and the 'Don't knows' are excluded, the split of opinion would produce a referendum result in Wales of 51% : 49% in favour of the Euro. To date most polls in Britain have shown significant majorities against membership of the common currency.

Table 2: How would you vote in a referendum on Britain adopting the Euro, the single European currency? (Except those certain not to vote)

	ALL				
Vote Yes: in favour of joining	41%				
Vote No: against joining	40%				
Will not vote	4%				
Don't know	15%				
		<u>Vote at last General Election</u>			
	ALL	Lab	Con	LibD	PIC
Vote Yes: in favour of joining	51%	67%	13%	63%	54%
Vote No: against joining	49%	33%	87%	37%	46%
		<u>Amongst those most likely to vote</u>			
Vote Yes: in favour of joining		55%			
Vote No: against joining		45%			

The results show that a significant number of Labour voters in Wales are now supporting British membership of the common currency. Whilst Liberal Democrat and Plaid Cymru party policy broadly supports membership of the common currency, the Conservative Party remains opposed, as do their supporters in Wales. Given the profile of party support in Wales from the last election, where Labour secured almost 50% of the vote, any successful referendum campaign in favour of the Euro in Wales must expect to draw heavily on Labour voters.

Recent elections and referendums in Britain have been undermined by low participation and the question of turnout could serious prejudice a referendum. Although the general election last June saw a record low turnout in Britain of less than 60%, only 28% took part in the European Parliament elections in 1999. The BBC Wales poll suggests that 49% of people in Wales would be 'certain to vote' in a Euro referendum and a further 12% would be 'very likely to vote'. If repeated, this suggests a potential participation rate at a referendum in Wales of 61%. However, such surveys often overstate the public's real intentions. The Devolution referendum in 1997 had a turnout of 50.3%, but the EEC referendum, back in 1975, saw 66% voting in Wales. If

¹³⁰ NOP interviewed by telephone a representative sample in Wales of 750 adults between 3 and 8 January 2002.

the poll results are controlled to only those most likely to vote in a referendum, 55% would vote 'Yes' to 45% would vote 'No'.

The decision on British membership however, remains highly technical. Gordon Brown and the Treasury will have to report on whether the British economy has satisfied the five tests before a referendum can even be called. Thereafter, however, for individual electors, their decision is going to be a personal one, rather than be driven by purely economic arguments. Although less than half of the Welsh public considered themselves to be well, or fairly well, informed about the common currency at the moment, before any referendum is held a good deal more campaigning and debate should have raised our level of understanding. This degree of confidence is very important when anticipating an eventual result. The present survey shows that of those who felt best informed, the 'Yes' vote was noticeably higher, 56% to 44% (see Table 3).

Table 3: Voting Intention Compared with those Informed about the Euro

	<u>Well informed</u>	<u>Not well informed</u>
Vote Yes: in favour of joining	56%	44%
Vote No: against joining	44%	56%

When asked to assess the impact of membership of the common currency upon various sectors of industry in Britain, respondents anticipated the greatest benefit would be felt in the tourist industry (see Table 4).

Table 4: If Britain were to join the Euro, would you expect these sections of British industry to be better off or worse off or would it make no difference?

	<u>Better off</u>	<u>Worse off</u>	<u>No difference</u>	<u>Don't know</u>
The City and financial services industry	32%	23%	25%	19%
Manufacturing Industry	44%	20%	20%	16%
Tourism industry	60%	9%	21%	10%
Agriculture	29%	23%	26%	22%

Whilst tourism is a significant earner for Wales, the industry is also responsible for organising thousands of holidays abroad and it is our first hand experience of using the Euro that is likely to impact most upon our attitude to the currency and thus to any referendum. The Welsh electorate also seem to be aware that Britain's present position *vis-à-vis* the Euro has been damaging for manufacturing industry and feel membership of the currency would improve the prospects in Wales for this vital sector.

At an individual level, almost half of the sample felt that if Britain were to join the Euro it would make no material difference to them personally (see Table 5). Of those who anticipated an impact on their circumstances however, those fearing they would be worse off, outnumbered those who believed they would be better off, by a margin of two to one. A sense of personal well being is likely to be crucial in any referendum

campaign. The electorate will want to feel confident that they will be better off, or at least that Britain as a country will be better off, before they will be sufficiently motivated to vote for the Euro.

Table 5: If Britain were to join the Euro, do you think that you, personally, would be better off or worse off or would it make no difference?

	ALL	Referendum Voting Intention	
		Yes	No
Better off	12%	84%	41%
No difference	49%	11%	31%
Worse off	27%	0%	17%
Don't know	11%	5%	11%

The introduction of Euro notes and coins on 1 January in the Euro zone, means people from Wales will soon be spending the currency themselves, when travelling, when on holiday or, for many others, using Euros in their daily work. The survey found almost 70% of respondents claiming that they, personally, expected to use the Euro over the next year. This growing familiarity with the new currency will undoubtedly define people's attitude to the Euro in the coming months (see Table 6 on the following page). It also seems likely that referendums will be called in the other European Union countries that are not members of the common currency, Sweden and Denmark. Positive, pro-Euro, results elsewhere in Europe, will reinforce a sense of Britain being further out of step with the European Union. Taken together, growing European exclusion and the public's personal experience of using the Euro will inevitably influence the British decision to call a referendum and impact upon its eventual outcome.

Table 6: As you may know, the Euro was introduced on January 1 in most EU countries. Over the next year or so, do you, personally, expect to have to use the Euro, either as part of your work, when travelling or on holiday?

	ALL
Yes	69%
No	29%
Don't know	2%

As an addendum to the BBC Wales poll on the Euro, NOP also asked respondents to the survey a small number of questions concerning the National Assembly for Wales. Specifically these were designed to assess the public's response to proposals from the First Minister and Cabinet that the Assembly should be more popularly called 'The Welsh Assembly'. It has also been proposed that the Cabinet and the administrative structure of the Assembly be called 'The Welsh Assembly Government' to distinguish it from the Assembly sitting as a deliberative, or legislative, collective body. The name Welsh Assembly would appear to be more popular with the people of Wales by a ratio of about 3 to 2 see Table 7).

Table 7: Do you think the Assembly should be known as 'The National Assembly for Wales' or as 'The Welsh Assembly'?

	ALL	Vote at last general election			
		Lab	Con	LibD	PIC
The National Assembly for Wales	29%	31%	29%	28%	32%
The Welsh Assembly	45%	47%	36%	44%	46%
Neither	11%	9%	16%	13%	14%
Don't know	15%	13%	18%	16%	8%

The legal name of the Assembly, the National Assembly for Wales, is specified in the Government of Wales Act and cannot be altered without legislation. The Presiding Officer has ruled that the formal, proper, name must be used in the Chamber but outside it appears as if the more colloquial, Welsh Assembly, is popular. With the exception of Conservative voters, many of whom presumably would prefer for there not to be an Assembly, there was little differentiation between parties on the choice of names.

Similarly, Rhodri Morgan and the Cabinet's wish to be known as the Welsh Assembly Government is accepted by the public, but approved by a smaller margin than that found for the name. A fifth of the sample however were prepared to say that they cared little about this matter or that it was up to the Cabinet what they wanted to call themselves (see Table 8).

Table 8: Rhodri Morgan and the Cabinet in Cardiff want to be known as 'The Welsh Assembly Government'. Do you agree with this title?

	ALL	Vote at last General Election			
		Lab	Con	LibD	PIC
Yes	42%	44%	28%	35%	44%
No	34%	32%	48%	47%	35%
Don't care/It's up to them	21%	21%	22%	16%	20%
Don't know	3%	3%	2%	2%	-

The adoption of the acronym 'WAG' for the Welsh Assembly however, was not endorsed by the public, and rejected by almost two-thirds of respondents (Table 9).

Table 9: Is WAG a suitable shorthand term for the political leadership of Wales?

	ALL	Vote at last General Election			
		Lab	Con	LibD	PIC
Yes	22%	21%	23%	26%	18%
No	62%	66%	56%	62%	65%
(Don't care/It's up to them)	12%	9%	18%	9%	14%
(Don't know)	4%	4%	3%	2%	3%

PRESS AND MEDIA

Nia Richardson, IWA

The Re-shuffle

When Mike German stood aside as Minister of Economic Development in July 2001 it was expected that the police investigation into allegations of fraud against him would come to an end within a few months. When this did not happen pressure increased on First Minister Rhodri Morgan to cease holding two cabinet portfolios. The press and the media assumed early on that a Cabinet reshuffle was inevitable.

Speculation began in December 2001 when the *Western Mail* predicted that Mike German would have to resign within a month unless the police had cleared him of all charges. The paper suggested that Carwyn Jones, the Minister for Rural Affairs, would be given the Economic Development portfolio:

“... it is being assumed throughout the Labour Group in the Assembly that Carwyn Jones would take over Mr. German’s economic affairs portfolio and that Peter Black, Liberal Democrat Deputy Minister would replace Mr. German as the Cabinet’s second Liberal Democrat.”¹³¹

However, no reshuffle occurred. After Christmas the Press reported that Rhodri Morgan had set a six-week deadline for the Mike German issue to be resolved. Despite a briefing by Rhodri Morgan in early February insisting that there was little substance to these stories,¹³² the press and media became increasingly convinced that a reshuffle was imminent. On Saturday 23 February the *Western Mail* predicted that it was a “make or break weekend for the Minister to decide on a reshuffle of his cabinet”,¹³³ reiterating that Carwyn Jones would be given the Economic Development position:

“The obvious move should Rhodri Morgan decide on a minimalist approach would be to move Carwyn Jones AM from Agriculture to Economic Development. This could pave the way for Delyth Evans to move up from Deputy Agriculture Minister.”¹³⁴

The following Tuesday, Rhodri Morgan re-shuffled his cabinet. In a surprise move, Andrew Davies, the Business Manager, was given the post of Economic Development whilst Carwyn Jones, the media’s favourite for the Economic Development position remained in his post as Minister for Rural Affairs, but also taking on responsibility for Assembly Business.

The media did not foresee these changes until late the evening before. HTV led its evening news with the prediction that Edwina Hart would get the Economic Development portfolio. However, by its late 11pm bulletin it had learnt that Andrew Davies was in the frame. The *Western Mail* managed to get this onto their front page

¹³¹ *Western Mail*, 12 December 2001

¹³² *Western Mail*, 12 February 2002

¹³³ *Western Mail*, 23 February 2002

¹³⁴ *Ibid.*

On the other hand, the *Welsh Mirror* was still speculating that the Economic Development position would go to John Griffiths AM for Newport or Carwyn Jones, giving an ‘Exclusive’ tag to its report.¹³⁵ Radio Wales carried the complete story on the morning of the announcement.

The press and media were disappointed with the changes. They had been chasing the story for over two months and had anticipated the introduction of new faces to the Cabinet. The BBC labelled it as a “tweak” rather than a reshuffle¹³⁶, whilst the *Western Mail* referred to it as the “great non-reshuffle.”¹³⁷ The paper accused Rhodri Morgan of missing out on an opportunity to make bold decisions regarding his Cabinet:

“Mr. Morgan has had an opportunity to shift gears in his administration, to add fresh ideas and impetus going into the last year before the National Assembly election, but as this decision will show he is failing to seize the day... There are decisions that could have been taken but were not. Mr Morgan should have taken a long, cold, hard look at the positions of Edwina Hart at finance and Jane Hutt at health. There is a strong case for moving both of them, Ms Hart for her failure over the Lord Rogers affair and Ms Hutt for her failure to have any worthwhile impact on problems that matter to patients ... Mr. Morgan’s prime motive force in undertaking this reshuffle seems to be to hold open a political future for his embattled former Deputy First Minister, Michael German.”¹³⁸

The next day, the *Welsh Mirror* mocked the appointment of the former Business Manager as Minister for Economic Development. Over a front-page photo of a tired and beleaguered Andrew Davies it ran the headline ‘NO HOPE-IO ... Does he have a clue?’¹³⁹ Political Editor Paul Starling, normally friendly to the Labour Party, questioned whether Mr. Davies was up to the job. The First Minister, he said:

“... let go of the crucial Economic Development job, recognising it was the hottest political potato in town. But he threw it to Andrew Davies, a man who has run a team of four people, who’s done a bit of lecturing and who once worked for Ford. We know little about him, but he has the future of hundreds of thousands of people in one of Europe’s poorest countries in his hands. When I spoke to him yesterday it was clear he had no new vision on where to take the Welsh economy.”¹⁴⁰

Student Grants

The announcement by the Minister for Education and Lifelong Learning that she was to re-introduce student grants in Wales received media coverage throughout the United Kingdom. Both the *Guardian*¹⁴¹, and *Daily Telegraph* ran stories¹⁴². The

¹³⁵ *Welsh Mirror*, 26 February 2002

¹³⁶ www.bbc.co.uk

¹³⁷ *Western Mail* 26 February 2002.

¹³⁸ *Ibid.*

¹³⁹ *Welsh Mirror*, 27 February 2002.

¹⁴⁰ *Ibid.*

¹⁴¹ *Guardian*, 12 February 2002.

¹⁴² *Daily Telegraph*, 13 February 2002.

Western Mail welcomed the initiative, celebrating the move away from English policy:

“It is a decision where policy makers in Wales have again dared to break with the English orthodoxy in a move which can only benefit our poorest students.”¹⁴³

London Coverage

The re-introduction of student grants might have reached the pages of the London broadsheets, but the Assembly Cabinet is worried that very little else of the Assembly’s work infiltrates the British press. In December, the Cabinet asked for proposals to be drawn up on how the Assembly Government could improve its links with the London press,

“Cabinet concluded that there should be greater efforts on getting more coverage in the broadsheet UK press and the technical media in Assembly issues, decisions and achievements. The UK media tended to concentrate on English policy developments without making reference to the devolved Administration. A paper would be brought to the Cabinet outlining proposals for strengthening close links with UK London based media and the technical press including the possibility of holding a media reception in London.”¹⁴⁴

Controlling the Assembly Sponsored Bodies

A different proposal made in the same cabinet meeting attracted the attention of the Welsh media. The Cabinet agreed that media announcements and comments made by Assembly Sponsored Public Bodies should not be out of line with Assembly Government policy. This was prompted by leaders of some of the Health Authorities and Trusts openly rebelling against the Assembly Government’s plans to reorganise the health service - replacing the five Health Authorities with 22 Local Health Groups. Its annoyance was reflected by the following Cabinet minute:

“Concerns were raised on media announcements and comments made by Assembly Sponsored Public Bodies. Ministers agreed that statements and comments made by officials from ASPBs to the media should not be out of line with Assembly Government policy. The Business Minister said he would present a paper on protocol for ASPBs and media announcements to Cabinet. The First Minister would meet the Chairs of Health Authorities and NHS Trusts, with the Minister for Health and Social Services, to discuss media announcements and the general relationship with the Assembly Government.”¹⁴⁵

The media interpreted this as the Cabinet putting a gag on its critics. Under the headline ‘Praise-hungry Cabinet stamps on official critics’ the *Western Mail* reported:

“Ministers at the National Assembly for Wales have ordered public bodies to

¹⁴³ *Western Mail*, 13 February 2002.

¹⁴⁴ Cabinet minutes 3 December 2001

¹⁴⁵ Cabinet Minutes, 3 December 2001, Assembly website: www.wales.gov.uk

stop criticising cabinet policies in the media.”¹⁴⁶

First Minister, Rhodri Morgan, was singled out for personal attack in the paper’s editorial which looked back on his days as an MP at Westminster:

“... if you wanted a comment on virtually any subject under the sun the ever-available Mr. Morgan was the first MP to call ... Quite often *The Western Mail* would be grateful for his interventions. Indeed, he became a highly successful conduit for whistle-blowers who wanted to give air to their concerns about the failings of the quangos for which they worked while protecting their anonymity. So it is rather odd that Mr. Morgan seems to be so determined to button up Assembly-sponsored public bodies: quangos by another name.”¹⁴⁷

It was unacceptable that Assembly Sponsored Public Bodies should have to ensure that their announcements were in line with Government policy:

“So that’s clear then. Trust managers, WDA officials, Tourist board wallahs and the rest had better engage with Rhodri’s brain before opening their mouths. Perhaps he ought to go the whole hog and ban anyone except him from speaking to the media.”¹⁴⁸

¹⁴⁶ *Western Mail*, 18 January 2001.

¹⁴⁷ *Western Mail*, 19 January 2001.

¹⁴⁸ *Ibid.*