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Main Stories

— **Assembly developing new relationship with Europe, after moves revealing determination to be more firmly in control of policy development**

— **Assembly challenges Westminster on financial arrangements for personal care for the elderly**

— **Boost in health spending announced in the Chancellor's budget resurrects debate over Barnett formula**

— **Independent Commission on Assembly's powers and electoral arrangements to start work in July, chaired by Labour peer Lord Richards of Ammanford**

— **Welsh Labour spring conference signals unwillingness to adopt Proportional Representation for local government**

Preface

This report continues the third year of a series of publications the IWA is producing in a project tracking the progress of the National Assembly, and in particular the policy developments it initiates across the range of its responsibilities. Quarterly reports are published and also posted on the IWA's website (www.iwa.org.uk) together with a more substantial annual publication*. The project is being undertaken in collaboration with the Welsh Governance Centre at Cardiff University under its Director, J. Barry Jones, and is supported by the Joseph Rowntree Charitable Trust. It is also being pursued in association with the Constitution Unit, University College, London, as part of a monitoring exercise of all the UK devolved institutions, together with tracking constitutional developments in Whitehall and in the English regions. Our partner organisations in Scotland and Northern Ireland are the Department of Politics, University of Strathclyde, and Democratic Dialogue. The Constitution Unit monitors constitutional changes and responses in Whitehall, while the Centre for Urban and Regional Developments Studies at Newcastle University is following the devolution process in the English regions. Further information on this project, including the regular reports from Scotland, Northern Ireland, Whitehall and the English regions can be found on the Constitution Unit's website: www.ucl.ac.uk/constitution-unit/

This report has been produced with the assistance of Jane Jones of the Department of Law, University of Wales, Swansea; Adrian Kay, Dr Alys Thomas, Professor Martin Laffin, and Gerald Taylor of the University of Glamorgan; Mark S. Lang and Denis Balsom of the Welsh Governance Centre, Cardiff University; and Nia Richardson, the IWA's Research Officer. The Institute is grateful to all of them for their contributions. The Institute is also grateful to the public affairs consultancy *Strategy Wales* for allowing us access to their weekly monitoring reports on the National Assembly, and in particular to Colin Noseworthy, Laura Morgan, Maggie Abbett, and Huw Roberts.

John Osmond
Director, IWA
June 2000

* The latest is *Building a Civic Culture: Institutional Change, Policy Development and Political Dynamics in the National Assembly for Wales*, published in March 2002. It follows *Inclusive Government and Party Management: The National Assembly for Wales and the Work of its Committees*, published in March 2001. Both are available from the IWA at £15. Previous quarterly reports in this series (all available from the IWA) are: *Devolution – 'A Dynamic, Settled Process' ?* (December 1999); *Devolution Relaunches* (March 2000); *Devolution in Transition* (May 2000); *Devolution Looks Ahead* (September 2000); *Coalition Politics Come to Wales* (December 2000); *The Economy Takes Centre Stage* (March 2001); *Farming Crisis Consolidates Assembly's Role*, May 2001; *A Period of De-Stabilisation*, September 2001; *Coalition Creaks Over Health*, December 2001; and *Education Policy Breaks Loose*, March 2002.

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SUMMARY

A unanimous Assembly vote in May to challenge Westminster on finding the resources for free personal care for the elderly out of general taxation put the Assembly Government on a collision course with the UK Cabinet. A spokesperson for the Secretary of State for Wales, Paul Murphy, immediately denounced the move, an attempt to follow Scotland's lead, saying it would have "no impact on government policy." The Assembly Government regards the vote as a first step in a long-term campaign of persuasion.

Health spending will be £1.8 billion higher in 2007-08 than it was planned to be in 2003-04, as a result of Gordon Brown's April Budget. The figures can be re-stated as a 6.8 per cent a year real terms increase across five years, compared with a figure of 7.5 per cent in England. This is a function of the Barnett 'squeeze': the formula, mathematically if not politically, is designed to equalise expenditure per capita across the four countries. Plaid Cymru used the difference to claim that there would be a 'shortfall' in expenditure on health in Wales equivalent to £180m, prompting it to table a debate demanding a recasting of the formula on a needs basis. This it claimed, would benefit Wales by an extra £800 million a year.

First Minister Rhodri Morgan pronounced a 'first for Welsh diplomacy in Europe' when he joined with nine other Regional Governments in promoting a Declaration in response to the Commission White Paper on European Governance. The Declaration called for more involvement of the European Regions in European policy formulation with the European Commission consulting directly with regional governments rather than via member state governments. In a parallel move, the Assembly Government pulled out of its involvement with the Wales European Centre in Brussels, and instead expand its direct representation in the European capital. This follows the representation pattern established by the Scottish Executive, and provides another example of the growing impact of the Assembly Government's determination to be more firmly in control of policy development and decision-making.

The Chairman of the independent Commission on the Assembly's powers and electoral arrangements, agreed as part of the Coalition Partnership between Labour and the Liberal Democrats, will be the Labour peer Lord Richards of Ammanford. The Commission will begin work in July and have ten members: four chosen by the political parties in the Assembly, and the remaining five appointed through advertisement. It will report in the Autumn of 2003 within six months of next May's Assembly elections. The Commission can be expected to address the case for the Assembly have law-making and tax raising powers in line with the Scottish Parliament.

A potential break point for the coalition Assembly Government was prompted by Welsh Labour's Spring conference in Swansea rejecting proportional representation for local government. Under the Partnership Agreement between Labour and the Liberal Democrats a Commission is currently examining local government electoral arrangements and is due to report in June. It is anticipated that it will recommend a version of PR for Welsh local elections.

1. THE ADMINISTRATION

John Osmond, IWA

Clash with Westminster over Free Care for the Elderly

The Assembly Government has put itself on a collision course with the Westminster over free care for the elderly. It has endorsed recommendations from an Advisory Group report *When I'm Sixty Four* it established to come up with a strategy for older people in Wales. This concluded that:

“The UK Government should be challenged to fund and implement Free Personal Care from general taxation and through benefits and inheritance policy.”¹

The proposal was unanimously adopted by the National Assembly as a whole in plenary session on 16 May, with Plaid Cymru and the Conservatives joining the Liberal Democrat Labour coalition in support. To carry the proposal through would require primary legislation at Westminster, which a spokesperson for the Secretary of State for Wales immediately said would not be forthcoming. The Assembly Government regards the vote as a first step in a lobbying campaign of persuasion,

The background to the vote was a technical report commissioned by the Advisory Group from Professor David Bell of the University of Stirling, which costed the policy at £67.5 million a year immediately, rising to £130 million by 2021, at constant prices. This may be a conservative estimate since making services free might further drive up demand and costs, with formal (paid for) caring being substituted for informal caring. On this basis professor Bell made an ‘upper case’ assumption of costs at £87 million rising to £181 million by 2020.

In taking this stand the Assembly Government is following the Scottish executive which is to introduce free personal care from July 2002 at a current cost of £125 million. In her report to the health and Social Services Committee on the issue earlier in May health Minister Jane Hutt noted that:

“The Advisory Group recognised that, in practice, moving to a free personal care policy here, if there is no change in the current position in England would have major financial implications. More generous treatment, relative to England, would have to be supported from the Assembly’s budget and compete with other demands for resources.”²

The motion that the UK Government should be ‘challenged’ to fund free personal care from general taxation reflects the Advisory Group’s view that the Assembly

¹ Report from health Minister Jane Hutt on a *Strategy for Older People in Wales* to the Health and Social Services Committee, 1 May 2002.

² *Ibid.*

Government would find it hard to find the money from within its existing block. However, the idea that Westminster might give ground was quickly dismissed by the London Wales Office of the Secretary of State for Wales Paul Murphy. A departmental spokesperson said:

“We do not think that it is a spending priority and this decision in the Assembly will have no impact on government policy. It is not clear to anyone what the thinking behind this is. There hasn’t been a vote on this issue in the Assembly Labour group or at the Welsh Labour conference.”³

Opposition parties saw this reaction as undermining the Assembly Government’s claim to enjoy close relations with the UK Cabinet. As Plaid Cymru’s health spokesperson Dai Lloyd put it:

“It is quite clear that Rhodri Morgan has no influence over Paul Murphy, so what hope has he of having any influence over Tony Blair.”⁴

Assembly Government Engages with the European Union

In May First Minister Rhodri Morgan pronounced a ‘first for Welsh diplomacy in Europe’ when he joined with nine other Regional Governments in promoting a Declaration in response to the Commission White Paper on European Governance. The Declaration called for more involvement of the European Regions in European policy formulation with the European Commission consulting directly with regional governments rather than via member state governments.

The move was as much declaratory and symbolic as signifying political pressure on behalf of the Regions. Nevertheless it was a further another indication of the First Minister’s enthusiasm for promoting Welsh aspirations on as wide a stage as possible. Previously the Assembly Government has merely endorsed declarations emanating from other Regions seeking greater influence within the counsels of the European Union.⁵ On this occasion the Press notice observed, “This is the first time that the Welsh government has been an original signatory of a trans European declaration”⁶.

The other participating regional governments were: Emilia-Romagna, Marche, and Tuscany within Italy; Hesse within Germany; Flanders and Wallonia within Belgium; Skane within Sweden; Aquitaine within France; and Scotland. Rhodri Morgan judged that Wales’ involvement marked a significant step:

“It shows great progress in our standing in Europe that other Regions want to work with us and share our experience. Just a couple of years ago it would have

³ Western Mail, 17 May 2002.

⁴ *Ibid.*

⁵ See ‘Wales joins EU Legislative Regions Lobby’ in *Coalition Creaks Over Health: Monitoring the National Assembly September to December 2001*, p.57-59.

⁶ Assembly Government Press notice, 13 May 2002.

been impossible to imagine Wales being at the core of a group of this sort. This development shows that the concept of a ‘Welsh diplomacy’ in Europe is developing as a reality.”⁷

In a parallel move, the Assembly Government resolved to pull out of its involvement with the Wales European Centre in Brussels, and instead expand its direct representation in the European capital. The end result will be to increase the of the funding of the Assembly Government Brussels staff from three to seven or eight and its funding from the current £330,000 a year – split between £189,000 for the WEC and the £140,000 costs of its existing separate office – to a sum nearer £500,000 if the Welsh Development Agency’s present contribution to the WEC is included, as seems likely.

The move, which follows the representation pattern established by the Scottish Executive, provides another example of the growing impact of the Assembly Government’s determination to be more firmly in control of policy development and decision-making. As the First Minister Rhodri Morgan declared:

“We need to establish a stronger presence and a clearer profile in European institutions in Brussels, Strasbourg, Luxembourg and elsewhere ... We must now look forward with a view to what will happen after the next Assembly elections. We have considered the nature of our representation in Brussels and the need to establish a clearer identity to answer the question who speaks for Wales in Brussels more clearly than in the past. We concluded that strengthening our office must be a priority if we are to face up to the challenges and opportunities presented by a demanding European agenda and the increasing significance of that agenda for Wales, namely in the fields of governance, the White Paper on governance, the future of Europe, structural funds, common agriculture policy reform, enlargement, regional policy, the European networks, the Committee of the Regions, and attendance at Council of Ministers meetings.”⁸

The decision provided another demonstration that the National Assembly is in practice – though not in a strictly legal sense - moving rapidly away from the corporate foundation on which it was established by the 1998 Wales Act. That is to say the idea of the Assembly as a corporate body whose powers are legally shared by all elected Assembly members, has been abandoned. Instead, powers are exercised by the majority coalition Assembly Government.

The National Assembly first joined the Wales European Centre in February 2000 as a result of a unanimous decision made in plenary session. The Opposition party leaders were appointed Directors of the Centre alongside the leadership of the minority Administration at the time. In other words, it was the Corporate Body that voted to join the Wales European Centre, while it was the Assembly Government that unilaterally took the decision to leave and set up a representative presence on its own account. This led to an ill-tempered dispute between Government and Opposition over the manner in which the decision was taken. The First Minister Rhodri Morgan claimed he had consulted fully with the Opposition party leaders on his decision to

⁷ *Ibid.*

⁸ Assembly *Record*, 16 April 2002.

withdraw from the Wales European Centre. They asserted that he had only informed them that he was proposing to review the Assembly Government's membership.⁹ On the substantive question, however, there is a large measure of cross-party agreement on establishing a stronger presence for the Assembly Government in Brussels. For example, some months previously the Plaid Cymru Group's Researcher on European Affairs, Lowri Gwilym, had argued for the move in the following terms:

“One of the main tasks of a free standing Assembly's Office in Brussels would be ensuring that Wales's voice is heard during the crucial pre-legislative process. It is within this sphere that the Office needs to establish an effective reputation. Another role should be to explore the opportunities emanating from the EU Governance process for the Assembly. Part of this would involve exploring the possibility of the Assembly entering into tripartite contractual agreements with the EU and Whitehall over some policy areas. The idea of having contractual agreements between the Assembly, Whitehall and the EU on some policy areas, such as those devolved to the Assembly, is an attractive one.”¹⁰

At the same time the decision, which gave the Wales European Centre - located in prestigious offices in Rue Joseph II in Brussels - a 12 month notice to quit, threw some doubt on its future viability. The Welsh Local Government Association is reviewing its membership, while the biggest contributor, the Welsh Development Agency, is likely to pull out as well. As Rhodri Morgan put it:

“The WDA has told us that whatever arrangements we make, it would prefer to come in under the Welsh Assembly Government's umbrella. It is difficult to say at the moment whether that will leave a viable Wales European Centre in 12 months time. However, we will do all that we can to facilitate a presence for other stakeholders in Brussels, if that is what they want.”¹¹

The budget and membership of the Wales European Centre is shown in Table 1 on the following page. The likely outcome is that an enhanced Assembly Government Office will remain in Rue Joseph II, with a slimmed-down WEC alongside. The present Assembly Government Office has a policy capability in three main areas:

- Constitutional issues
- Agriculture
- Inter-regional links

In future the expanded Office will embrace the remaining broad policy areas within the Assembly Government's responsibility: education, environment, industry and economic development, and health. A further indication of the Administration's determination to establish a firmer grip on the European dimension of policy making was revealed in two Cabinet papers prepared by the First Minister published during March¹²:

⁹ Assembly *Record*, 2 May 2002: debate on the Wales European Centre.

¹⁰ Lowri Gwilym, 'Representing Wales Abroad' in *Agenda*, Institute of Welsh Affairs, Autumn 2001.

¹¹ Assembly *Record*, 16 April 2002.

¹² Assembly website: Cabinet minutes for 11 and 18 March.

Table 1: Budget and Membership of the Wales European Centre 2000-01

In 2000-2001 the WEC received £870,000 in financial contributions, the bulk of which came from its three leading members:

- Welsh Development Agency: £264,300
- National Assembly: £189,000
- Welsh Local Government Association: £189,000

Other WEC members are:

- ELWa (from April 2001)
- Countryside Council for Wales
- Environment Agency Wales (from April 2001)
- The three National Parks – Snowdonia, Pembrokeshire Coast, and Brecon Beacons
- Arts Council for Wales
- Welsh Language Board
- Wales Tourist Board
- University Colleges of Wales – Cardiff, Swansea, Bangor, Aberystwyth
- University of Glamorgan
- Institute of Grassland and Environmental Research
- Fforwm – the Further Education Colleges of Wales
- Eight LEADER Groups – Antur Cwm Taf Tywi, Antur Teifi, Cadwyn, Cymad (Meirion, Arfon and Dwyfor), Menter Mon, Menter Powys, Menter Preseli, and SPARC (South Pems)
- Farmers Union of Wales
- Wales Council for Voluntary Action
- Wales TUC

1. *An Analysis of Opportunities for Ministers to Influence Policy in the EU*
2. *Spanish Presidency of the European Union*

The latter, the first occasion for a Cabinet Paper to be prepared on the priorities of a Member State holding the Presidency of the European Union. notes:

“In the context of the debate on EU reform, the EU’s six-month rotating presidency has been facing increased criticism from all sides and could well be abolished in the future. Recently, Peter Hain, the UK’s Minister for Europe, and José Maria Aznar, the Spanish Prime Minister and current EU President, both expressed their support for the abolition of the rotation.”¹³

The second Cabinet Paper sets out a matrix for the European policy questions that Assembly Cabinet Ministers should target, as shown in Table 2.

¹³ *Ibid.*

Table 2: Assembly Cabinet's Target Pressure Points for Influencing European Union Policy

Cabinet Minister	Opportunity to Influence
<p>Cohesion Policy:</p> <p>First Minister (future of economic & social cohesion, post-2006) & Minister for Economic Development (current Structural funds programmes)</p>	<ul style="list-style-type: none"> • Cohesion workshops in Brussels 27-28 May, though Ministerial presence has not yet been proposed by either the Commission or UK lead department (DTI). We are pursuing the question of representation of Wales' interests at these workshops; • Visit of Commissioner Michel Barnier to Wales, mid-2002, date to be confirmed.
<p>Review of CFP: Rural Affairs Minister (sensitivities as above)</p>	<p>Minister at UK Fisheries Ministers meeting 18 April; Assembly officials involved in process for agreement on UK Government position on CFP review.</p>
<p>Consistency with European Union Sustainable Development Strategy (again sensitivities as above) and Impact Assessment methodology; Environment Minister</p>	<p>Minister sees papers on UK position in respect of the EU SDS in the run-up to Barcelona & Seville, and attended the European Environment Council on 4th March.</p> <p>DEFRA are sponsoring a seminar on sustainability impact assessment in Brussels on April 23 to look at the experience of the Member States, international and regional bodies, and may be willing to feature the Integration Tool we are developing.</p>
<p>Transport Policy – First Minister or Environment Minister</p>	<p>There is an opportunity to influence on integrated transport. Wales is a member of the Conference of the Peripheral Maritime Regions and we can put forward our ideas for integrated transport through this forum for peripheral regions of the EU. They hold meetings throughout the year and our FM has been invited to Spain in March.</p>

Commission on the Assembly's Powers

The Chairman of the independent Commission on the Assembly's powers and electoral arrangements, agreed as part of the Coalition Partnership between Labour

and the Liberal Democrats, will be the Labour peer Lord Richards of Ammanford, MP for Barons Court, London, 1964-74. He was the UK Permanent Representative at the United Nations, 1974-79; Chair of the Rhodesia Conference in 1976; a European Commissioner, 1981-84; a member of the Shadow Cabinet as Leader of the House of Lords 1992-97; and a member of the Cabinet as Lord Privy Seal and Leader of the House of Lords, 1997-98. In the debate on the announcement in mid-April, the Liberal Democrat leader Mike German said the Commission was:

“... the most important constitutional initiative since the referendum and the establishment of the National Assembly for Wales.”¹⁴

Rhodri Morgan, who worked closely with Lord Richard when he was a European Commissioner, a time when the First Minister was himself the European Commission’s Representative in Wales, described the peer as:

“... halfway between being 100 per cent Labour Government loyalist, never departing from the party line, and an independent who is outside the party. He is the right kind of person in terms of having clout in Whitehall and Westminster ... Requesting transfers of functions or primary legislative powers means that someone must relinquish power and that someone else must gain it: power that Whitehall and Westminster gives up is gained by the Assembly. Experience and clout in Whitehall and Westminster is needed as well as knowledge of Wales.”¹⁵

Lord Richard’s Commission will begin work in July and have ten members: four chosen by the political parties in the Assembly, and the remaining five appointed through advertisement under the Nolan-Neill rules¹⁶. Public meetings are expected to be held throughout the Winter and Spring, along the lines of the current Sutherland Commission on Local Government Electoral Arrangements. The Commission will report in the Autumn of 2003, probably October, within six months of next May’s Assembly elections. Following that the timetable will be dictated by the Westminster process. As Rhodri Morgan put it:

“... it will become part of the political process of drawing up manifestos for the general election in Westminster. If there were recommendations requiring primary legislation, they would have to appear in manifestos at the time of the next Westminster general election in 2005 or 2006.”¹⁷

While the Commission’s precise terms of reference remain to be established, the territory is already fairly clearly mapped out. Most of it was referred to in the short exchanges following the First Minister’s announcement on 18 April. The Commission can be expected to address:

- the argument for reconstruction of Welsh devolution, for making a clear separation between the legislature and the executive and an end to the single corporate body.

¹⁴ *Assembly Record*, 18 April 2002.

¹⁵ *Ibid.*

¹⁶ As applied by the Committee on Standards and Conduct in Public Life (now the Wicks Committee).

¹⁷ *Ibid.*

- Arguments for primary legislative power.
- The need for coherence and consistency in the allocation of legislative power (an end to “the zig-zag line of our legislative settlement”¹⁸).
- The case for tax-raising powers.
- Size of the Assembly.
- Extent of proportional representation in the Assembly.

There has been so much criticism of the anatomy of the devolution settlement that it is tempting to accept as inevitable that the Commission will recommend that the Assembly be granted primary legislative and tax raising powers and that the settlement be restructured along the lines of the Scottish model. There are however real ‘whether’ as well as ‘how’ questions in respect of each and all of these issues. Nor can the wider context of the process of devolution throughout the UK, including proposals for devolution to the English regions, be ignored¹⁹.

While welcoming the initiative the architect of the present devolution settlement, Labour AM Ron Davies, drew attention to the fact that the Assembly had so far had no opportunity of debating this commitment. He said the process could have been started immediately following the Partnership Agreement and completed in time for the next Assembly election:

“It does not restart the process on a particularly sound note when we are charging an independent Commission with the opportunity of considering these wide issues when we have not had the opportunity of having even the most cursory of debates on them. Secondly, we have the passing disadvantage of having to face the electorate in some 15 months’ time on the basis of saying, ‘vote for us, and after the election, we will tell you what we think about the future of our own institution.’”²⁰

For the Conservatives David Melding sought an assurance that if the Commission recommended primary law-making powers for the Assembly this should require a further referendum, to which Rhodri Morgan replied:

“You made an important point that that the greater the change, the greater the likelihood that you would see a referendum as being required. That is par for the course. The issue of law-making powers may or may not require a referendum. It would depend on how that would be viewed in October 2003, not in April 2002.”²¹

¹⁸ *Ibid*, Michael German

¹⁹ White Paper “Your Region, Your Choice: Revitalising the English Regions”, Department for Transport, Local Government and the Regions, May 2002

²⁰ *Assembly Record*, 18 April 2002.

²¹ *Ibid*.

Public Private Partnerships

First Minister Rhodri Morgan told the Wales TUC conference in Llandudno in May that he remained committed to using public money for building hospitals despite the Westminster Government's preference for private finance initiatives. He said the Assembly Government's intention was to concentrate PFI activity in areas like road building but to continue use public investment for capital investment in health and education schemes wherever possible:

“Our decision, jointly made by Finance Minister Edwina Hart and Health Minister Jane Hutt, to build the second Rhondda hospital and the hospital at Porthmadog entirely through the public sector is not some opportunistic aberration. It was taken against the backdrop of the strategic statement we made last year on the role of private finance and public-private partnerships.²² If the public interest is served by private finance we will develop the sort of partnerships which serve the public interest.”²³

This intervention came after delegates at the Wales TUC conference called for strict limitations to the role of the private sector. Typical costs of building a new hospital from public funds was around £40 million, compared with £200 million over 40 years under a PFI scheme. Earlier Wales TUC general secretary David Jenkins acknowledged that the Assembly Government's broadening of the definition of professional teams – so that, for example, porters, cooks and cleaners would be included with professional categories of doctors and nurses – might discourage PFI initiatives in Wales. However, he added:

“While we recognise that the Welsh Assembly Government has sought to respond to the concerns we have raised, we remain wholly opposed to the financing or running of public sector services in Wales by the private sector. We remain seriously concerned about the UK Government's tendency to look for private sector solutions to public sector problems.

“One of the key issues is the extent to which the Assembly can use its own resources and funding to go down a different principled route to what they're going down in England. There is some evidence, which has caused us concern over the past 12 months, that there's a distinct lack of enthusiasm within

²² See Edwina Hart, 'Statement on Investment through Partnerships in Wales', *Assembly Record*, 13 December 2001: “We must continue to be prepared to finance a large part of our capital investment through conventional means ... The Assembly does not intend to privatise public services; rather, it seeks to deliver those services by the most efficient and effective means available under the direction of the relevant public body ... We aim to maintain the public sector ethos, which we value, in all public services ... we would not expect clinical, professional, or front-line staff, such as doctors, nurses and teachers to transfer to the private sector as part of any PPP or PFI project in Wales. I want to ensure that the concept of the clinical team in this context is not defined by status. We will aim to redefine that which makes up the clinical team so that staff such as porters, cooks, and cleaners would not transfer to the private sector employment but would remain employees of the the national health service.”

²³ *Western Mail*, 3 May 2002.

Westminster for the fact that the Assembly seems to be going down a more realistic route on PFI than nationally.

“One of the things that’s going to be opened up for discussion over the next 12 months is the extent to what extent there should be a further extension of devolution to enable the Assembly to openly take a different position on PFI.”²⁴

Economic Advisory Panel Appointed

The Assembly Government has appointed an Economic Research Advisory Panel to recommend a rolling programme of economic research, monitoring and evaluation. It will be supported by a newly created Research and Evaluation Unit within the Cabinet Secretariat, a further indication of the strengthening and streamlining of policymaking at the heart of the Assembly Government machine.

The Chair of the Panel is **Professor Garel Rhys**, Director of the Centre for Automotive Research at the Cardiff Business School. His appointment, which is unpaid and for three years, was made following interview by a panel comprising Education Minister Jane Davidson, the Chair of the Economic Development Committee Christine Gwyther, Education Committee member Cynog Dafis(PC), officials and independent assessors. Commenting on his role he said:

“The Panel will look across the economic agenda – at issues affecting education, transport, and rural development, as well as business and industry. It will examine the best practices from other small countries and regions, and look at ways of developing the capacity for economic analysis in Wales.”²⁵

The other six Panel members were appointed following open advertisement, and selected on the basis of the information provided in their application forms by a panel comprising three Assembly Government senior officials and an Independent Assessor. They are:

Harvey Armstrong is Professor of Economic Geography at the University of Sheffield, and former Chair of the Economics Department at the Management School, Lancaster University. He has many years experience in practical economic research and is a recognised authority on the economies of small countries and regions. He is a former specialist adviser to the House of Commons DTI Select Committee on regional policy.

Simon Gibson, a member of the Board of the Welsh Development Agency, is Chief Executive of Wesley Clover Corporation, a private venture capital firm specialising in early stage equity funding. He has international experience in the high technology sector, successfully developing companies and marketed products around the world.

²⁴ Rhodri Clark, ‘Assembly backing unions against Treasury on PFI’, *Western Mail*, 30 April 2002.

²⁵ Assembly Government Press Release, 25 April 2002

He is a member of the Welsh Electronics Forum and Director of several public and private IT companies.

Andrew Henley is Professor of Economics and Director of Research at the School of Management and Business, University of Wales, Aberystwyth. He has extensive experience in undertaking economic research, including work for the Economic and Social Research Council. He is an External Fellow of the Experian Centre for Economic Modelling at the University of Nottingham.

Gerry Holtham is the Chief Investment Officer at Morley Fund Management, and a Director of the Institute of Welsh Affairs. He has a wide experience of conducting and applying economic research on a range of public policy issues, and was formally Director of the Institute for Public Policy Research; Head of General Economics Division for the OECD; Chief Economist at Lehman Brothers; and Fellow and Tutor at Magdalen College Oxford.

Chris Johns is Global Strategist at ABN AMRO, responsible for research and advice on asset allocation. His previous posts include Director of Investment Strategy at AICM, Dublin; Chief Economist for the Bank of Ireland; and Economist at HM Treasury and at the National Institute of Economic and Social Research. He has also been Tutor and Lecturer in economics at Cambridge University and City University.

Janet Wademan, a Non Executive Director of Gwent Health Authority, is Managing Director of Van Helsing Ltd, a small company involved in the practical exploitation of information and communication technologies. She is an acknowledged expert in e-working and is called upon to address conferences on e-working throughout Europe and beyond. She is also external Professor at the School of Computing, University of Glamorgan.

Deputy Minister To Stand Down at Election

Delyth Evans, Deputy Minister for Rural Affairs, Culture and the Environment, announced in March that she would not be seeking re-election to the Assembly in May 2003 due to family commitments. A former speechwriter for Labour leader John Smith she was a special adviser to Alun Michael and succeeded as a Mid and West List member when he stood down following the vote of no confidence in him as First Secretary in February 2000.

2. FINANCE

Adrian Kay, University of Glamorgan

UK Budget Impact on Health Spending

The result of this year's Comprehensive Spending Review (CSR) will be published in the summer. This biennial event will set an overall indicative budget for the Welsh Assembly (the 'block') for the period 2003/4 to 2005/06. Gordon Brown's UK budget on April 16 pre-empted the CSR by announcing large increases in government expenditure on health in England in the five years from 2003/04.

The consequences for the Assembly Government's budget are determined by the Barnett formula: this calculates the impact on the Welsh block of the announced increases. Undoubtedly, further increases in government expenditure in England in non-health areas will be announced in the CSR; these will also be converted into increases in the Welsh block according to the Barnett formula. However, the actual Welsh Assembly budget, how that block will actually be allocated between different areas, will not be decided until December 2002 where the budget for 2003/04 will be set along with indicative baselines for the two financial years after that.

Paul Murphy, the Secretary of State, has been in charge of the public presentation of the recent UK budget in Wales. In his press statement after the budget²⁶, he announced that there would be the following increases in the money *available* for spending on health in Wales: see Table 3. The existing 2003/04 health expenditure baseline was £3,841m, as at December 2001.

Table 3: Extra Money Available for spending on health in Wales

Year	Anticipated increase
2003-04	£128
2004-05	£493
2005-06	£907
2006-07	£1,348
2007-08	£1,800

These are cumulative increases: health care expenditure in 2007-08 will be £1.8 billion higher than it was planned to be in 2003-04. These figures can be restated as a 6.8 per cent a year real terms increase across five years in health expenditure. This compares to a figure of 7.5 per cent in England. This is a function of the Barnett 'squeeze': the formula, mathematically if not politically, is designed to equalise

²⁶ Press Notice, The Wales Office, 17 April, 'We are providing the investment - now let's deliver the reform.'

expenditure per capita across the four countries.²⁷ Ieuan Wyn Jones used this difference to claim that there would be a 'shortfall' in expenditure on health in Wales equivalent to £180m.²⁸ This figure is arrived by assuming that if Welsh health expenditure grew by 7.5 per cent instead of 6.8 per cent then the cumulative increase over five years would be £180m higher than that announced. That is to say, the Barnett squeeze is equivalent to around 10 per cent of the increased expenditure on health.

Intervention of the Secretary of State for Wales

Paul Murphy's involvement in the announcement of extra money for health raised constitutional as well as fiscal questions in Wales. According to the intergovernmental fiscal mechanisms set up for devolution, he is only entitled to announce that the increases in health care expenditure in England will lead to increases (or 'consequentials') in the overall Welsh block through the operation of the Barnett formula. However, in the week after the budget, he made it clear in several press interviews that all this extra money would be spent on health. He confirmed this in evidence to the Welsh Grand Committee on 24 April. This aroused Plaid's ire. according to Dafydd Wigley:

“He stated categorically exactly how much money would be spent on the NHS in Wales, as a consequence of Gordon Brown's budget. He had no right to make such a statement since, as has been confirmed by Edwina Hart today, no decision has yet been made by the Government of Wales on how to spend any additional cash being made available through the Barnett Block.”²⁹

Raising a point of order in plenary session Dafydd Wigley elaborated on the point. Observing that in the Welsh Grand Committee on Wednesday 24 April Paul Murphy had enunciated the extra amounts that would be spent on the health service in Wales in succeeding years as a result of the budget, he declared:

“A fundamental question arises. How can Paul Murphy make a statement in Parliament in London noting the figures that will be spent on the health service in Wales? I am not disputing the accuracy of the figures or whether they should be larger or smaller, but asking what right does Paul Murphy have, under the Government of Wales Act 1998, to make such a statement? Deciding how money is spent within the Welsh block is a matter for the Assembly Government, which is answerable to the Assembly, and not a matter for Paul Murphy.”³⁰

²⁷ The question of the coverage of the formula is discussed in Ross MacKay's IWA report June 2001, 'The Search for Balance: Taxing and Spending Across the United Kingdom'; IWA, June 2001. This also forms one of the main points of Plaid Cymru's submission to the Treasury select committee's review of regional finance in the UK.

²⁸ Press Notice, Plaid Cymru, 30 April, 'Wales will not get all Brown's millions on health.'

²⁹ Press Release, Plaid Cymru, 2 May, 'Murphy accused of misleading Parliament and undermining the National Assembly for Wales.'

³⁰ Assembly Record, 2 May 2002.

In response to a subsequent question in Assembly plenary, Rhodri Morgan admitted that not all the extra money would necessarily go on health. Edwina Hart also confirmed that the spending priorities of the Assembly government had not yet been decided over the next five years. As she put it, in her budget statement:

“The announcement that we will receive more than £900 million over the three years from 2003-2004 to 2005-2006 and over £1,800 million by 2007-2008 will enable the Welsh Assembly Government to continue improving the quality of health care in Wales. There will be new money for new and better ways of improving better health. As Assembly Members will appreciate, we set our own priorities for allocating the Assembly’s budget and have already started the process of determining our strategic priorities for the spending review period – on which we will be consulting next month as part of the annual Budget Planning Round.

“Improving health will be a key strategic priority. Achieving this means two things – first providing the NHS and local government in Wales with the resources necessary to sustain core services and deliver better, more effective care. But it also means tackling the poverty and under-achievement which underpins the poor health status of many parts of Wales and helps us contribute to the achievement of a preventative, primary care led service in Wales.

“Within the NHS and local government we have to transform delivery so that we achieve a health service not a sickness service, and proactive, not reactive social services. This means investing in the primary and community care services that support people in their own homes and communities and prevent problems from becoming serious – tackling the causes of ill-health, not just the symptoms.

“Five-year figures for spending in this sector enables five-year strategies to be devised. On top of that, devolution means that we are in a unique position to plan our investment strategically in health. It is our intention to use these resources, along with any other additional resources that emerge in July, not only to ensure that core health and social services are adequately funded but also to deliver this cross cutting, preventative agenda.”³¹

However, the question of how the fiscal mechanisms of devolution are operating adumbrates the strong politics of the situation. The significant point from Paul Murphy's public statements since April 18 is that the UK government has an unmistakable interest in the performance of the NHS in Wales and that the Assembly will be held to account for the use of this extra money in delivering improvements in health care.

The usual language of devolution from the centre has changed in tone. For example, in a speech to Wales TUC in Llandudno on May 1, Murphy stated that:

³¹ Cabinet Statement, 18 April 2002

“Yes, we can deliver it [health care reform] our own Welsh way. But the Welsh way has to lead to better services that deliver for everyone in Wales.”

The undeviating tone has been that 'we' (the UK government) are providing the investment and 'you' (the Assembly) will be deliver NHS reform and improvements in efficiency. The urgency of the language is evidence of how central the performance of the NHS is to Labour's second term in Whitehall. For example Murphy in his Llandudno speech added:

“Let me put it bluntly. The choice is between a reformed health service or no health service.”

We therefore have a test case of the tensions of devolution in Wales: the UK government controls the purse strings and clearly does not want to cede this politically sensitive ground to the Assembly's discretion yet health is a devolved area under the Government of Wales Act. It is in such politically salient areas that perhaps the development of the devolution process may be best judged.

3. POLICY DEVELOPMENT

Nia Richardson, IWA

Education and Lifelong Learning

The Education Minister Jane Davidson's ten-year Higher Education strategy, announced as a response to the Education Committee's Review of Higher Education, has three themes: collaboration, widening access and knowledge exploitation. It stipulates that the higher education institutions should collaborate further in future to enable them to compete for students, research funding and contracts more effectively. She stated that this new form of collaboration would be formed through 'reconfiguration' rather than re-structuring:

'This strategy must be characterised by a pursuit of excellence. We agree with the Committee that the sector cannot face that challenge with its current structure. Reconfiguration is central to promoting the excellence that we seek.'

³²

Commenting on the Education Committee's recommendation that Higher Education Institutions should encourage collaboration through forming clusters she stated:

"The sector's future does not lie with 13 institutions with similar missions; it must become diverse, with functional clusters pursuing excellence in chosen field. Competition can be healthy, but collaboration is healthier. Effective collaboration is essential to ensuring a sustainable future for the sector. I will not be prescriptive about the form that those clusters will take, but a commitment to long-term collaborative working must be a reality. I will expect the sector to bring forward substantive proposals in the next financial year. By 2010, I expect to see the sector transformed from being narrow and institutionally based, to being characterised by a series of networks of excellence."³³

The Minister has allocated £3m in 2002-03 to support this reconfiguration and a further £2m has been made available in 2002-03 to support another aspiration of the strategy which is to widen access to higher education. The money will be spent on pilot initiatives to recruit and retain those who have no family history of higher education. The Minister also announced that she would be lifting the cap on the student intake of a higher education institution.

A National Strategy for Modern Foreign Languages has been unveiled to encourage and develop the learning of modern foreign languages in Wales. Its main aims are to:

- Improve the take up and standard of foreign language learning, particularly beyond age 14.

³² Record of proceedings 7 March 2002.

³³ *Ibid.*

- Increase the recognition by schools, pupils and parents of the importance of language learning; and increase recognition by employers of the importance of foreign language skills.
- Ensure that foreign language learning builds on the learning of English and Welsh and brings learners to value diversity and gain understanding of other cultures.
- Enable Wales to play its part on the world stage and position it more firmly in an international context.
- Contribute to making Wales a country which engages more confidently with the world, and benefits from a higher profile.

To achieve these aims a new Centre for Information on Language Teaching and Research has been established in Cardiff Bay. It will be responsible for promoting language learning in Wales. Other initiatives include pilot programmes teaching foreign language at Key Stage 2 and new guidance for schools on arrangements in secondary schools for language teaching.

The Assembly Government has allocated £2 million towards developing innovative ways of delivering education in rural schools. As part of the new guidance they will issue to Local Education Authorities in the near future, the Assembly Government stipulates that LEA's must consider every possible alternative before approving proposals to close down rural schools. These alternatives may include options such as federation, IT networking, informal association for collaboration, and the £2m will be spent on exploring and supporting these ideas. First Minister Rhodri Morgan has made it clear that he is pressing for the federation concept as an alternative to rural school closures:

“We believe in an education policy based on a federation of schools, with peripatetic teachers teaching on Monday and Tuesday in one school, Wednesday and Thursday in another, and so on, to ensure that the national curriculum is delivered. We hope that that is the way forward for rural schools.”³⁴

The names of the schools which will take part in the pilot of the new Welsh Baccalaureate Qualification were announced. The baccalaureate pilot will be built around the current qualifications: A and AS levels, BTECs and NVQs. The Pilot will last for 10 years and will develop and test the qualification. Nineteen schools and colleges will take part in the first cohort which will begin the pilot in September 2003. The second and third cohorts of centres will begin to deliver the Baccalaureate in September 2004 and September 2005.

Health and Social Services

³⁴ Record of proceedings 16 April 2002

A new scheme extending free eye tests in Wales came into effect in May. Beneficiaries will be those at greatest risk of contracting eye disease.:

- People with sight in only one eye.
- People with a hearing impairment.
- People who suffer from retinitis pigmentosa.
- People whose family origins are Black African, Black Caribbean, Indian, Pakistani and Bangladeshi.

A £1.8m strategy has been drawn up to attract more dentists to Wales to address a chronic shortage of dentists in parts of the country. Measures include:

1. Grants of £20,000 to establish new vocational training practices.
2. Incentives to encourage dental graduates to undertake their vocational training in Wales.
3. Payments to practitioners returning to the profession after a break of two years or more.
4. Introduction of a refurbishment fund for existing practitioners undertaking treatment for the NHS.
5. Continuation of the delivery of NHS general dental service treatment through the community dental service.

Prescription charges are to be frozen for the second year running in 2002-2003. The cost of a prescription in Wales will remain at £6.

The Report of the Review on Safeguards for Children and Young People treated and cared for by the NHS in Wales (the Carlile review) was published in March. The review was established by the Minister following the North Wales Child Abuse Inquiry. The Tribunal heard allegations from former patients of a health clinic in north Wales that were beyond its terms of reference as the children were not in the care of the local authority. The Carlile report included 150 recommendations, including:

- More appropriate staff training.
- An increase in the number of paediatricians and trained children's nurses.
- Rigorous recruitment procedures for staff who care for children in the NHS.
- A better process for dealing with 'whistleblowers'.

The Minister intends to increase the number of places for training children's nurses by 21 per cent in the coming year. She has also made a commitment to ensure that the NHS select appropriate staff provide them with adequate training.

The Administration's Advisory Group on a Strategy for Older people has published its report for consultation. Recommendations include:

1. Engaging older people more effectively in society.
2. Avoiding discrimination and ageism.
3. Changing political and governmental structures to give older people's issues a higher profile.
4. Active ageing through citizenship and contributing to the community.
5. Ensuring health and well-being in old age.

6. Maintaining independence and coping with dependence.

The report recommended that it would be impractical for the Assembly to take forward a policy of free personal care at the present time. However, it encouraged the Assembly Government to challenge the UK Government to fund and implement free personal care in the context of UK taxation, benefits and inheritance policy.

Economic Development

The Assembly Government has introduced a new grant scheme to support businesses investing jobs in Wales. The new *Assembly Investment Grant* will provide funds between £5,001 and £50,000 to SMEs investing in Wales. This was a result of the recommendations made by a Task and Finish Group set up by the Assembly government to look at the area of enterprise grants.

Another new scheme has been set up to assist Welsh inventors in developing their ideas to become commercial success. The Welsh Innovators Network will support lone inventors and small businesses to commercially exploit their ideas. There will be four networks covering the whole of Wales each with its own Technology Counsellor to help innovators get access to free advice and financial support. The scheme will also provide up to £1,500 worth of funding for the design and development costs of new products.

The final element £17 million of the £76 million funding package to deal with the impact of jobs losses from Corus plants in south east Wales has been announced by the Assembly Government. It will partially fund strategic employment sites and premises by the WDA. £1 million will support the development of tourism in the area through the South East Wales Regional Tourism Partnership Development Programme. The money will also be used to extend the Community Learning Network in the area and to enhance the take up of ICT/broadband throughout the region.

European Structural Funds

The Interreg III programme which supports joint Irish/Welsh projects aimed at promoting the sustainable development of West Wales and South Eastern Ireland was officially launched in February. The first round of the programme is now open for applications. The Programme is worth £40 million and the deadline for the first application round is the 15 May. *Opportunity Wales*, a further £21 million programme under Objective One for west Wales and the Valleys will encourage Welsh businesses to use the latest ICT effectively.

Local Government and Housing

The Assembly has introduced a new optional model for council house ownership. The **Community Housing Mutual Model** places emphasis on tenant empowerment and local communities. It transfers ownership of the local authority housing stock to its tenants as a collective or co-operative.

The Local Government and Housing Committee is in the final stages of its review of Community Regeneration initiatives. The emerging issues concern funding, capacity development, shortage of community regeneration staff, the resourcing of community engagement by the statutory sector, advancing the Communities First Approach and the role the Assembly Government can play in community regeneration.

Agriculture and Rural Development

A Rural Stress Scheme has been set up as part of the Rural Recovery Plan which was launched last year. The Scheme has a budget of £450,000 for the next two years and will provide revenue funding for voluntary bodies to enable them to tackle stress in rural areas. Activities it could support include:

- Strengthening advice, support and counselling services
- Providing training, support and supervision for volunteers
- Establishing new local support groups
- Outreach support for people within the rural community who may not access help through statutory routes
- Increasing the awareness of the support and services available.

The management and ICT training element of Farming Connect, the support services for farming families has been launched. ELWa (Education and Learning Wales) has created a package of training courses that will help farmers develop management, IT and entrepreneurial skills.

Environment, Planning and Transport

The Assembly Government has produced its first Planning Policy document entitled *Planning: Delivering for Wales*. The document will form the strategic policy

framework for local planning authorities in Wales when preparing development plans and determining applications for planning permission. The contents include new guidance on where and how Green Belts can be used in Wales. It also requires that every local authority in Wales will have to take the Welsh language into account when considering new developments. Elsewhere in the plan are new policies on flooding and other environmental risks, guidance on biodiversity and integrating sustainable development into planning policy. The document also recommends replacing Unitary Development Plans with Local Development Plans which would be quicker to draw up and less rigid.

North-South routes, in particular the A470 from Cardiff to Llandudno, are given priority in the Trunk Road Programme for Wales launched in the wake of the Assembly Government's Transport Framework for Wales (first published in November 2001). The rolling programme includes a number of major schemes which will all start sometime within the next six years. The schemes have been chosen following careful consideration of the relative merits of projects using a ranking system established with the assistance of the Welsh Transport Forum. The

Culture

A document outlining three different options for the future structure of support and strategic direction for Museums, Libraries and Archives has been distributed for consultation. At present, much of the policy direction for these sectors come from the UK-wide body, *Resource: the Council for Museums, Archives and Libraries*. The report proposes the establishment of a new body which could give the sector a more 'Welsh' direction, with three options:

- No structural change, whereby *Resource* would continue to take forward many areas of work on a UK basis and, as now, the Minister would set an overall policy framework and provide funding for the Council of Museums in Wales and for the Library and Information Services Council Wales.
- A new structure in the form of a *Resource for Wales* would be established located within the Assembly government. It would incorporate those functions of the Council of Museums which are paid for by the Assembly Government, the functions of the Library and Information services Council (Wales) and cover the whole sector including archives. It would be independent of *Resource*, but it would seek to call on *Resource's* expertise where appropriate. It would develop or adapt policies for Wales and the unit would be appropriately staffed with experts from the sector.
- The third option is the same as option two plus an Advisory Council of around ten members which the Minister would chair. This Council would provide formal input into the policy process from outside the Assembly Government.

In future the Welsh Books Council is to receive its publishing grant directly from the Assembly Government rather than receiving its money via the Welsh Language Board. The change is a consequence of the recommendations of the Task and Finish group on publishing set up by the Minister and chaired by Deputy Minister Delyth Evans.

Equality

In partnership with the Equal Opportunities Commission and the Wales TUC, the Assembly Government has launched a new campaign to reduce the pay gap between men and women. The campaign will encourage private and public sector employers to carry out pay reviews so that any pay inequalities can be identified and resolved.

4. THE ASSEMBLY

John Osmond and Nia Richardson, IWA

Barnett Funding Debate

An Opposition debate tabled by Plaid Cymru revealed growing pressure across the parties for a review of the Whitehall Barnett Formula which allocates increases in block spending between Wales, England, Scotland and Northern Ireland on the basis of population. Those arguing for change believe Wales would fare better if funds were allocated on the basis of a up-dated needs assessment instead.

The Assembly Government believes it would be unwise to press for change until it is absolutely clear that the outcome would be a larger share of public expenditure for Wales. However, the Plaid Cymru minority debate demonstrated that it is becoming harder for the Government to hold this line. In particular the Liberal Democrats sided with Plaid Cymru in arguing the case for a change to a needs-based assessment, though it refused to support the terms of the motion tabled to this end. During the debate the Labour backbencher, Ron Davies, the main architect of the Wales Act, also elaborated on his view that, as he put it:

“The Barnett formula, as it currently operates, is a historical anachronism that needs to be updated. Any new allocation should be based on the principle of need.”³⁵

Opening the debate Plaid Cymru’s Finance spokesperson Janet Ryder argued that Wales’ needs position relative to the rest of the UK had worsened significantly since the formula was first established in the late 1970s. GDP per head had fallen from 88 per cent to 80 per cent of the UK average. In addition the population of pensionable age was 15 per cent higher than could be predicted from the population under pensionable age – an equivalent of an extra 75,000 retired people. This results in quantifiable implications for the total health budget for health and social services which are not covered by the Barnett formula. Using official figures Plaid Cymru calculates the amount to be equivalent to an extra health cost in Wales of about £200 million a year. It claims that overall a fair needs assessment would benefit Wales by as much as £800 million a year.³⁶

Peter Black, Liberal Democrat AM for South West Wales, endorsed the call for a needs assessment in the following terms:

“Without a mechanism such as that proposed by the Liberal Democrats in our last general election manifesto of a finance commission for the nations and regions to agree and review a needs-based formula, Wales will continue to lose

³⁵ *Assembly Record*, 7 May 2002.

³⁶ The figure is based on an assessment reached by Plaid’s Policy Adviser on Economic Affairs, Professor Phil Williams AM, in a submission to Treasury Select Committee’s inquiry into regional spending across the UK, ‘The Case for Replacing the Barnett Formula’, April 2002.

out. Along with the issue of more powers for the National Assembly, we consider this to be a major priority in correcting the current constitutional settlement.”³⁷

For the Conservatives Nick Bourne insisted that in the absence of an independent analysis and assessment a re-negotiation of the Barnett formula presented too high a risk:

“Plaid Cymru is seeking to open a Pandora’s box without knowing what will fly out of it. It may be that deprivation in north-east England, Yorkshire, Cornwall and elsewhere will mean less, not more, money for Wales.”³⁸

Ron Davies had no such doubts:

“We now need an act of political courage. We must say that the formula that determines how much we currently receive is outdated and must be brought up to date, not least because of the change in political circumstances. The days of Joel Barnett as Chief Secretary to the Treasury sitting in a Cabinet in London when the rules of collective Cabinet responsibility are long gone. We now have a new political settlement in this country and we need a new way of allocating financial resources which reflects that new political situation ...

“... There are two elements at the heart of the argument. First, Welsh prosperity over the last 20 years has collapsed and has put enormous pressure on our economic and social spend. Secondly, the vexed question of health expenditure. We received a substantial increase in the tremendous budget that we have just had from the Labour Chancellor of the Exchequer. However, we have a problem in Wales, because for every £100 we receive from the Treasury we must find an extra £14 from our own resources to meet the historical imbalance between our spend and that of England. The consequence of that is that if we have £1.8 billion over the next five years, as we have had from the Treasury for health expenditure, we must find £270 million over that same period of time to maintain the differential in terms of health expenditure between Wales and England. That will place – and it is not a matter for party political knockabout – a huge burden on our public services in Wales, not least economic development and education. The paradox is that the less money we spend on economic development, local government and education, the greater the pressure on the health service.

“Finally, if you consider the percentage increases, the UK as a whole gives a percentage increase of 7.2 per cent. The percentage increase in health expenditure for us in Wales is 0.8 per cent less than that – 6.4 per cent. Our task is to find that difference, which, if you take the First Minister’s figure of a £5 billion increase over the next five years, is around £0.75 billion to get up to the UK average. We must find this 15 per cent. In the present circumstances, we cannot do that. We must show some sense of responsibility and political

³⁷ *Assembly Record*, 7 May 2002.

³⁸ *Ibid.*

leadership to the people of Wales. This is a manifest injustice and it must be corrected.”³⁹

In her response the Finance Minister Edwina Hart urged caution:

“A review of the Barnett formula to embrace the thorough needs assessment would be complex. Such a review would take time. Moreover, we would need to secure the support of the other devolved administrations, and we would be unwise to ignore the potential impact of the forthcoming White Paper on regional governance in England and how those proposals might be funded. We must recognise that inevitably, there will be discussions about how Wales will compare with north-east and north-west England. What about the redistribution of the south-east, and the impact on Scotland and the north of Ireland?

“... When all this is finished, can I guarantee that Wales will be better off? The evidence is uncertain. However, having embarked upon a review, I would have to live with the results. Ron spoke about political courage: neither the administration nor I lack courage, but I must be pragmatic. When the time is right, we will need to consider issues ...

“... On health spending, it has been announced that the Assembly will receive Barnett consequential adjustments amounting to some £1.84 billion over five years. As I have emphasised on several occasions, it is for the Assembly to decide how it should be allocated, and we have a process for doing so. We have stated that health is our top priority, but that does not automatically mean the national health service. We want to examine the broader health agenda during this year’s budget planning round. It is not simply a matter of matching growth in the national health service in Wales with that in England. It is about transforming delivery, so that we achieve a health service not a sickness service, and proactive not reactive social services. This has a far wider agenda than looking over our shoulders at the national health service spend in England.”⁴⁰

Culture Committee’s Review of the Welsh language

The Culture Committee’s review of the Welsh language which got underway nearly a year ago is reaching its final stages. It has been undertaken in a time which has seen the language issue catapulted to the top of the party political agenda. For instance, Simon Glyn’s remarks on in-migration to Welsh-speaking communities attracted accusations of racism and sparked the establishment of Cymuned, a new Welsh-language pressure group.⁴¹ The Dafydd Glyn Jones affair in June 2001 also projected the Welsh language into the Assembly as a subject to political argument⁴²

³⁹ *Ibid.*

⁴⁰ *Ibid.*

⁴¹ See Chapter 12, *The Economy Takes Centre Stage, Monitoring the National Assembly, Dec-Aug 2001*

⁴² See ‘The Dafydd Glyn Jones Affair’, Chapter 2, *A Period of De-Stabilisation, Monitoring the National Assembly May - August 2001*

Despite this turbulent background, the Committee endeavoured to undertake the review in a constructive and consensual manner. However, differences of opinion became clear in May when the Committee finally discussed the recommendations to be included in the Committee's report. A list of 33 recommendations was tabled by the Committee Secretariat, which included

- Planning permission should be obtained before changing the status of a permanent home to a holiday home.
- Where there is a conflict between the needs of Welsh speaking communities and those of incomers, the needs of the community should take priority.
- The Assembly, in conjunction with the Welsh Language Board, should develop a national strategy on the Welsh language with special measures for the Welsh speaking heartlands and in the context of equal opportunities.
- A bilingual approach to tourism would help to increase a Welsh cultural identity
- The Welsh language should be a cross cutting theme within the Assembly and be supported by a dedicated unit.

Several of the members of the Committee were confused as to how the list of recommendations had been reached. Lorraine Barrett, (Lab, Cardiff South and Penarth) complained that she had no recollection of agreeing to some of the recommendation:

'We are being asked to approve 33 recommendations, but I cannot remember voting on any of them.'⁴³

The Chair, Rhodri Glyn Thomas (PC, Carmarthen East), told her that the recommendations had been taken out of the minutes which had recorded the views reached by the Committee during the year. Certain Labour party members wanted to go through the recommendations one by one in order to discuss them fully. The Chair refused this demand arguing that the issues had already been discussed during the course of the review. Labour party members remained dissatisfied with Alison Halford (Delyn) accused the Chair of 'bulldozing' the recommendations through the Committee without the necessary discussion. Forced into a compromise, the Chair agreed to receive written comments from Committee members on the recommendations and assured members that they would be incorporated into the draft report to be written by the end of May.

As a result, consensus has still not been reached on the Committee's recommendations with only two weeks to go before the draft report was due to be tabled for Committee discussion. What is clear, however, is that a recommendation for a new Welsh Language Act, advocated by the Plaid Cymru group within the Committee will not be included. Members of the Labour group and the Minister, Jenny Randerson (Lib Dem, Cardiff Central) were of the view that many of the

⁴³ Culture Committee meeting, 15 May 2002

Committee's recommendations could be accommodated for in the present Welsh Language Act 1993 or other legislation and that a new Act was unnecessary.

After nearly a year of listening to witnesses and taking evidence, the Committee is now coming down to the difficult process of compromising on one of the most divisive issues in Welsh politics. Language activists are likely to be disappointed by the omission of a recommendation for a new Welsh language Act. The newly formed pressure group Cymuned has already voted in favour of opting for a campaign of civil disobedience if the report of the Committee fails to meet its expectations. Renewable energy

Renewable Energy

A report from the Economic Development Committee made six recommendations on the promotion of renewable energy in Wales. However it drew back from setting targets on how much renewable energy Wales should aim to produce in the future.

The main focus of the report is on three different scenarios suggested by AEA Technology, a consultation firm brought in by the Committee to produce strategic study of renewable energy resources in Wales. Three scenarios are based on a range of targets:

- The lower end of the range labelled as 'Business As Usual' foresees a continuation of current trends within Wales and a production of 1.75TWh (Terra-watt-hour) by 2010.
- The Second 'middle target' is entitled 'Accelerated development'. It implies an increase in onshore wind, biomass and photovoltaic schemes which would produce 2.52TWh.
- The upper end of the Target range 'Green Future' considers a very ambitious level of deployment across Wales with all of the major technologies contributing strongly to the overall target. In this scenario overall production of energy would reach 4.93 TWh.

Initially, it appeared that the Committee was going to opt for the maximum 'Green Future' scenario. The first draft report presented to the Committee for comment on 13 February stated clearly that the Assembly should aim for electricity production targets of 4TWh by 2010.

However, Committee members became concerned that this target was overly ambitious and in their meeting of 6 March concluded that they were not in a position to set a firm target. Instead, they decided that this should be an issue to be addressed in the consultation process.

Other recommendations stipulated that the National Assembly should develop its own use of renewable energy with the aim of becoming a 100 per cent user and that the

Minister for Economic Development should identify the energy sector as a sector with high growth potential in Wales.

The Minister for Economic Development made a statement on energy to plenary in which he seemed to support many of the Committee's aspirations, concentrating on the potential for renewable energy in Wales:

“My Cabinet colleagues and I are determined that the Assembly Government and its agencies will play their full part in rising to the challenge of a clean energy future by finding innovative means to promote energy efficiency or working in partnership with all parties; maximising acceptable on and off-shore windfarm developments; fully exploiting biomass opportunities for the benefit of our rural economies; ensuring that we become a world leader in marine and fuel cell energy technologies with long-term potential; and seizing mainstream gas and coal opportunities. I am certain that the Economic Development committee's review of energy policy will help my cabinet colleagues and me to contribute effectively to this debate.”⁴⁴

Another of the Committee's recommendations stipulated that the National Assembly should streamline the planning process for renewable energy development and should seek an extension of its powers with regard to the approval of power generation facilities. In his statement, the Minister revealed that this was already underway:

‘As you are aware, we have held discussions with the Department of Trade and industry on the possibility of transferring the legal power to consent large power stations of above 50MW to the Assembly. These discussions are continuing, but it is too early to give any indication of progress.’⁴⁵

However, Alun Cairns (Con) was unhappy that the Minister had made the statement before the consultation period of the Economic development Committee's report had come to an end:

‘I am perplexed by the purpose of today's statement on energy policy. The Economic Development Committee, as the Minister rightly highlights in his statement, is conducting an energy policy review. We are about to embark on the second stage of that energy review. I would have thought that the most constructive way that the Minister could have played a part, rather than coming in the full glare of the television cameras to make a statement, would have been in that Committee, by contributing positively and constructively and seeking to influence the Committee's policy-making role. Would it not have been more sensible for the Minister to make a statement after the Committee had completed its consultation and made its general recommendations? That would have recognised the Committee's policy-making role, rather than sidelining the Economic Development Committee's work, as this does.’⁴⁶

⁴⁴ Record of Proceedings 30 April 2002

⁴⁵ Ibid.

⁴⁶ Record of Proceedings 30 April 2002

Members Salaries

In March Assembly Members voted to increase their salaries to £41,500. Part of the increase was due to a mistake made by the Senior Salaries Review Board. For the past three years Members have been paid 73.3 per cent of a MP's salary when they should have been receiving 74.3 per cent. In order to rectify the mistake £500 has been added to their salaries this year, whilst a similar figure will be added for the next two years so that Members will reach the amount that they would have received had the mistake not occurred.

5. THE LEGISLATIVE PROCESS

Jane Williams, Department of Law, University of Wales, Swansea

Assembly Government's Proposals for Westminster Primary Legislation 2002-03

Under Standing Order 31 the Cabinet put forward its proposals for Westminster primary legislation to Plenary which, as required, were debated before the end of March. Eight Bills were proposed, as follows.

1. Common Land (Wales) Bill

This Bill would reform and strengthen the management of common land in Wales. Its main effects would be to:

- Establish commons management associations, comprising graziers with rights to graze stock on each area of common land.
- Give such associations powers to develop and enforce a grazing regime for each area of common land, to regulate grazing numbers and promote animal welfare and biodiversity;
- Give the Assembly powers of oversight and direction in relation to commons management associations.

The Bill would have no financial impacts on the Assembly.

2. Sunday Licensing (Wales) Bill

This short Bill would remove the need for local authorities to hold polls on the opening of licensed premises on Sundays, where requested. It doing so it would remove what is widely seen as a needless regulatory and financial burden on the licensed trade and local authorities. The Bill would have no financial impacts on the Assembly. However, it would remove a financial burden from local authorities: the 1996 poll in Rhondda Cynon Taff is estimated to have cost the authority around £60,000.

3. St David's Day Bill

This Bill would provide for St David's Day to be a public holiday in Wales, by amending the Banking and Financial Dealings Act 1971. If the proposal is taken forward, there will be a need to consult further before deciding whether a St David's Day Holiday would be in substitution for an existing holiday, or an additional one. There would be no financial impact on the Assembly arising from this proposal.

4. Land Use Planning Bill

The proposal is to implement proposals on changes to planning procedures designed to speed the operation and clarity of the system. These are currently subject to consultation following a Green Paper in England. There are no financial impacts for the Assembly and potential cost savings for users of the planning system.

5. Education Bill

The proposal is to strengthen the Assembly's ability to implement proposals in the education paving document, *The Learning Country*, by extending statutory force to a range of policies currently implemented administratively. There would be no financial impacts on the Assembly beyond those already envisaged for the payment of Assembly Learning Grants.

6. Audit (Wales) Bill

This Bill would merge the functions of the Audit Commission in Wales and the Auditor General for Wales to create a single audit body for Wales (as already exist in Scotland and Northern Ireland). This body would have responsibility for the Assembly; Assembly sponsored public bodies; health authorities and NHS Trusts; and local government. It would have a single line of accountability to the Auditor General for Wales but arrangements would recognise local government's constitutional independence to the same extent that the existing ones do. There would be a short-term cost to the Assembly of perhaps £500,000 to £1 million, to establish the new body. That could be offset in the longer term by economies of scale.

7. Housing Ombudsman (Wales) Bill

This short Bill would extend the remit of the Local Government Ombudsman for Wales to cover registered social landlords. In doing so it would provide a proper ombudsman service for tenants of such landlords. The Bill would increase the housing caseload of the Local Government Ombudsman by perhaps a quarter, giving rise to some very modest financial impacts. There would be no other financial impacts on the Assembly.

8. Passenger Transport Bill

The proposal is to follow up the recommendations of the recent Policy Review of Public Transport providing for organisational structures to support public transport planning and provision and giving the Assembly powers of direction over the Strategic Rail Authority. The financial impact on the Assembly would depend on the extent and type of organisational change adopted.

One issue permeating discussion of these or any other primary legislative proposals made by the Assembly is the significance of the presentation of Bills in Westminster as ‘Wales only’ Bills or as measures covering both England and Wales. For some, the number of ‘Wales only’ Bills is a measure of the success of the Assembly in promoting provisions in primary legislation and the fact that so far only one such Bill (which became the Children’s Commissioner for Wales Act 2001) has been enacted since the Assembly took its powers is an indication of the relative weakness of the Assembly as a legislature⁴⁷. There is however no question that all of the proposals listed above are equally as capable of being dealt with in a Bill dealing with England and Wales and indeed other parts of the UK as they are of being dealt with in Wales only Bills.

Whether the proposals do ‘see the light of day’ will depend on decisions yet to be taken by the UK Government as to the priorities for the next Westminster parliamentary session, and on opportunities and events arising in the course of that session. Lord Richard’s Commission on the Assembly’s powers will undoubtedly wish to look closely at the experience so far of the various post-devolution Bills that have conferred functions on the Assembly. One concern is whether, contrary to one of the declared aims of devolution to Wales, democratic scrutiny of primary legislative proposals is actually reduced rather than enhanced by continuing to legislate at Westminster⁴⁸. If Westminster is to retain primary legislative functions for Wales this concern will have to be addressed, whether Bills cover England and Wales or Wales only.

The Assembly Government’s document outlining these Bills, laid in the Table Office on 11 March, also referred to **The NHS (Wales) Bill** which would allow the reorganisation of the health service in Wales to go ahead. This was the subject of a successful bid for publication in draft during the previous year as part of an England and Wales Health Bill and so was not included. However, there remains a large question mark over how many of the eight new measures will see the light of day in Westminster. As the Liberal Democrat leader, Mike German, put it in the debate:

“We look forward to the UK Government accepting as many of these Bills as possible. However, the range of the Cabinet proposals makes it clear to me, and to the Liberal Democrats, that the Assembly needs to have primary legislative choices ... Many of the policies before us would carry a majority in this Chamber, yet we cannot implement them because we do not have the power to do so.”⁴⁹

Introducing the debate First Minister Rhodri Morgan noted that the Scottish Parliament had been passing about ten measures a year. He added that in its attempt to pursue primary legislation at Westminster the National Assembly was in a similar position to a Whitehall Department which might hope to achieve one or two measures per year:

⁴⁷ This argument was further developed in David Melding’s speech “The Unitary State: As Dead as Queen Anne”, given to the Welsh Governance Centre at a seminar on 29 April and to be published shortly by the Centre.

⁴⁸ Some of these concerns have been voiced in connection with the current Bills on education and health – see this section of the last quarterly monitoring report.

⁴⁹ Assembly *Record*, 19 March 2002

“We must try to work out what is a reasonable share for us in terms of primary legislation. When there are 25 Bills in a typical Queen’s Speech, should we be looking to include one or two Bills, or one major Bill and one small, tidying-up measure?”⁵⁰

He also drew attention to the two proposals in the list specific to Wales, the termination of the requirement to hold ballots on Sunday opening and management of common land. On the latter he remarked:

“It may not be a big issue, and it is certainly is not a big issue in England, and will never be subject to legislation there. It is a much bigger issue in Wales. This is a classic example of where we need the House of Commons’ legislative facilities to pass a Bill on a specific Welsh problem, namely overgrazing on our commons. That does not seem to occur outside Wales to such a degree that would cause people to consider legislation necessary.”⁵¹

Subordinate legislation

The debate as to the effectiveness or otherwise of the Assembly’s performance in enacting its own legislation continues. As part of an effort to promote consciousness of the Assembly as a legislature both the Counsel General and the then Minister for Assembly Business addressed a seminar hosted by Morgan Cole in January⁵². The Counsel General’s address included figures showing a dramatic change in the position described by Lord Morris of Aberavon QC⁵³, that ‘only one or two’ of the first two hundred statutory instruments made by the Assembly differed in substance from their English counterpart. According to researches within the Office of the Counsel General, when all of the 230 pieces of Assembly general subordinate legislation enacted in 2001 were taken into account, a total of some 35 per cent were “either unique to Wales or, where they paralleled similar legislation passed in England, involved significant differences in drafting reflecting Welsh circumstances.”⁵⁴

The extent to which Assembly legislation is truly ‘made in Wales’ is one measure of the effectiveness of the Assembly as a legislature. Another is the quality of the scrutiny of its legislative product. There is more than one view as to the relevant factors to be taken into account in assessing this, as illustrated in exchanges between the First Minister and David Melding AM in Questions to the First Minister on 16 April⁵⁵. Mr Melding asked whether the relatively small amount of instruments

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² Edited versions of the Counsel General’s address appear in (2002) 1 Wales Law Journal pp306 – 312 and in the Spring 2002 issue of *AGENDA* (the Journal of the Institute of Welsh Affairs) pp37 – 39.

⁵³ Lord Morris, former Attorney General and Secretary of State for Wales, was speaking in his inaugural lecture as Chancellor of the University of Glamorgan, December 2001.

⁵⁴ See note 18 above.

⁵⁵ See Assembly Record of Proceedings and, further, David Melding’s speech “The Unitary State: As Dead As Queen Anne”, note 10 above.

submitted to the extended procedure (whereby they are referred to a subject committee after being laid in draft⁵⁶) represented good enough scrutiny. In his response the First Minister referred to the elements of formal scrutiny provided by the Legislation Committee, the Business Committee and the Assembly in plenary session, as well as the involvement of subject committees in considering or 'scrutinising' proposals before draft legislation is put to the Assembly's formal legislative processes. If the totality of those elements is taken into account, no doubt the quality of legislative scrutiny appears very much better than if the use of extended procedure is taken as the sole or main yardstick.

One of the procedural innovations of the Assembly's legislative procedure is the 'private members' legislation' under Standing Order 29. The Review of Procedure favoured extension of this procedure but was inconclusive as to the how the necessary technical support would be found to enable Members to use it effectively.⁵⁷ However an interesting example of its use to facilitate debate on a highly topical and far from 'dry' issue occurred on 2 May when Gareth Jones AM used SO 29 to propose that the Minister for Environment be required to bring forward draft subordinate legislation to amend the Town and Country Planning (General Development Procedure) Order 1995. The intention was to place a duty on local authorities to consult with health authorities or other appropriate statutory health bodies when they receive planning applications to build schools on contaminated land.⁵⁸

The debate was in fact about the recent controversies relating to the grant of outline planning consents for the building of new schools on contaminated land sites in Conwy and in Newport. Mr Jones' motion was opposed by the Assembly Government on the grounds that it was technically defective and that it addressed only one aspect of a wider problem already being dealt with by more broadly based changes to planning guidance.

Whether this meant the best would be the enemy of the good on this occasion was a matter on which the parties divided, and the majority commanded by the Assembly Government prevailed. However, the device of SO 29 undoubtedly facilitated a genuine and robust debate about how best to address potential conflicts between new development, sustainability and the 'precautionary principle', and the rights of children to protection from risks to their health.

⁵⁶ For a full description of the different procedures, see this section of the IWA quarterly monitoring for the period May to August 2001, pp 53 and 54.

⁵⁷ See this section of the IWA quarterly monitoring report for the period December 2001 to March 2002.

⁵⁸ NDM1022, and see Assembly Record of Proceedings, 2 May.

6. RELATIONS WITH LOCAL GOVERNMENT

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

Freedom and Responsibility in Local Government

On St David's Day Edwina Hart, the Minister for Finance, Local Government and Communities, launched *Freedom and Responsibility in Local Government* which she hailed as the:

“... first opportunity for the Welsh Assembly Government, with help from local government, to set out a clear vision for the future of local government in Wales ... (it represented an) opportunity to set out a clear and coherent framework for the governance of Wales, setting out the strategic role of the Assembly and the important work which local government undertakes in identifying and delivering local and national priorities.”⁵⁹

The Statement contains chapters on community leadership, improving services, cutting red tape, democratic accountability, and finance. In many it brings together and existing initiatives and ongoing consultations and proposals into a single document. Actions range from building and continuing support and monitoring by the Assembly Government to new secondary and primary legislation.

The Statement's main significance lies in its reiteration of the principle of partnership and dialogue with local government while attempting to delineate the discrete responsibilities of each tier (or sphere, as some would prefer), an initiative that many prominent local government figures have been pressing for.⁶⁰ Nevertheless, the Assembly Government does stress its power to intervene in any failing authority. Local government has welcomed the general tone but elements remain cautious whether reality will reflect the rhetoric. In particular the introduction of severance pay for councillors over 60 pay will provide an interesting test of the Assembly Government's avowed aim to give local government in Wales a more representative profile. The Statement's contents are dealt with under the following headings:

Community Leadership

The Local Government Act 2000 gave county councils in Wales a duty to work with others to prepare a strategy setting out how the economic, social and environmental well-being of their area could be improved. The Assembly Government's guidance on community strategies stated

⁵⁹ Assembly Government Press Release, 1 March 2002.

⁶⁰ See previous IWA Monitoring Reports.

“The intention is that local authorities should be leaders in the Welsh sense – as the proverb from the Mabinogion says: ‘bid ben, bid bont’, who would be a leader must be a bridge – helping others to move forward in a common direction and overcome obstacles to progress.”

With regard to Community Leadership the Assembly Government’s action points largely related to continued monitoring, support and facilitation. It undertook to take:

“ ... further steps to ensure that Assembly Sponsored Public Bodies and NHS bodies in Wales play their full part in supporting community strategies.”

Improving Services

The Partnership Council has endorsed a new approach to implementing the best value legislation, the ‘Wales Programme for Improvement’.⁶¹ The Assembly Government has already consulted on guidance for the Wales Programme for Improvement, which came into effect from April 2002. The paper listed the key features of the programme:

- **Evidence and outcomes, not process:** Local authority functions will be judged by the evidence produced about whether they are performing well and whether they will continue to improve.
- **Action to promote improvement:** Increasing emphasis will be placed on whether services are actually improving and whether action plans for improvement are being delivered. The focus will shift to investment in organisational and personal development.
- **Flexibility:** What matters is what will lead to better services, where they are needed most.
- **Member engagement:** The programme gives greater freedom and greater responsibility to elected members to lead the improvement of public services. All members, whether carrying out scrutiny or decision making responsibilities, need to have ownership of this programme.
- **External engagement:** Local authorities will need to work with communities, with partners – including the voluntary and private sectors - and with other local authorities.
- **Manager and staff engagement:** Local authority managers and staff should be given the opportunity to show that they have plenty of ideas about how to make services more efficient and more responsive to need.

The Wales Improvement Programme was described in the paper as,

“in effect a ‘contract’ between the Welsh Assembly Government and Welsh local government.”

Local authorities will have the freedom to lead and manage improvements in public services within its broad framework but should any authority appear to be failing to meet its legal duties, the Assembly Government has strong and wide-ranging powers to take action to safeguard services. Moreover:

⁶¹ See previous IWA Monitoring Reports.

“... the Welsh Assembly Government would not hesitate to do so in such circumstances, following the terms of protocols already agreed with the Welsh Local Government Association.”

The paper adds:

“... authorities need to examine more closely the benefits of working with other local authorities in terms of strategic approach; economies of scale; and the securing of specialist services.”

However, the wording is careful to avoid implications of coercion given former fears expressed by Local Government about ‘creeping regionalisation’.⁶² It went on to stress that:

“... working together can involve a variety of forms of shared arrangement. On occasions a joint committee can be formed to oversee the sharing of a facility between authorities. On other occasions the arrangement may simply be one of an authority agreeing to purchase a specialist service from another authority.”

The example of the Five Counties Regeneration Framework to tackle the fallout from the CORUS closures was cited as a positive example of strategic co-operation. However, the paper concluded that:

“Both local government and the Welsh Assembly Government need to be clear about when, why and how new regional structures or national bodies are needed.”

Action points included secondary legislation to facilitate joint working and undertakings to support improvement in local authorities for example through the Local Government Equalities Unit, the National Procurement Unit and the development of e-government.

Cutting Red Tape

The paper tackled the issue of defining the respective roles of the Assembly Government and Local Government. The Assembly Government role is to:

- Provide leadership for the whole of Wales: to set clear overall priorities and goals and support and encourage all to achieve them.
- Develop policies which meet Welsh needs and ensure that different all-Wales policies complement each other.
- Stand for and promote certain values: working in partnership with local government, the voluntary sector and business; equality of opportunity; sustainable development; and tackling social disadvantage.

⁶² *Ibid.*

In addition it has responsibility for framing secondary legislation and guidance; disseminating best practice; setting minimum standards where necessary, as well as national targets; encouraging innovation and monitoring overall progress and far reaching powers and responsibility to act if local government fails to adequately discharge its responsibilities.

The role of county councils is to:

- Provide leadership at local level.
- Define local priorities with their partners and with local communities.
- Represent their communities, making sure that their views inform the regional and national picture.
- Help deliver local objectives, both monitoring and accounting for progress;
- Secure the provision of local services to the highest standard possible, meeting their statutory obligations in so doing.

The paper stated that

“The Welsh Assembly Government is committed to moving towards a more coherent policy and planning framework for local authorities which respects the role of local government.”

Democratic And Accountable Local Government

The paper announced the intention of the Assembly Government to consult on the recommendations of the Commission on Local Government Electoral Arrangements in Wales, due to report in June 2002, before coming to a view. It is already involved in consultations with UK government departments, to ensure that any innovations in voting methods which are considered likely to boost voter involvement, as well as access to the democratic process by disabled people, are made available in Wales.

The paper tackled the long standing issue of the representativeness of Welsh local government and the Assembly Government undertook to introduce revised regulations to reflect the new guidelines on councillors’ allowances and to enable councils to pay additional allowances to members with caring responsibilities. It also plans to regulate to make allowances for all county council elected members pensionable.

The INLOGOV report to the Assembly, *Recognising Councillors’ Worth* found that 72 per cent of Welsh councillors were male, had an average age of 58, while 49 per cent were over retirement age. The solution proposed is a severance scheme for councillors over 60:

“To address this imbalance while recognising that long serving councillors have not been able to make any pension provision linked to their service as councillors, the Welsh Assembly Government intends that long standing councillors will be rewarded for their service and encouraged to make way for younger representatives through the introduction of a one-off severance

scheme for councillors aged 60 or over who have served for more than one term and who decide not to stand for re-election in 2004.”

Consultation will take place on the detail of the scheme on the basis that it would offer £750 per year of service up to a maximum of 20 years' service.

Resourcing Local Government

The paper referred to the consultation paper *Simplifying the System* and summed up its main themes. The remaining chapters set out the Assembly Government's plans for a future Welsh local government finance system. They cover the following:

Council Tax

The paper confirms the Assembly Government's plans for a Council Tax revaluation. Preparatory work is already underway, including an examination of the relationship between council tax bands. Following consultation with local government and others, it is proposed that new council tax bands should be published by summer 2003. New valuation lists will follow in late 2004, coming into force on 1 April 2005. Support for the move toward a statutory revaluation cycle is confirmed. The UK Government intends to legislate to require revaluations at intervals of not more than ten years. It is envisaged that there will be a revaluation in Wales every eight years.

Business Rates

Consultation on a full range of options for the business rate has occurred and the results will be considered in the early summer and a decision made. Most of the options put forward will require primary legislation and the timetable for primary legislation is potentially a bill in the autumn session of Parliament this year. In response to the proposals in *Simplifying the System*, there was strong support for introducing measures to reduce the rate burden on small business. Primary legislation will be required to introduce a scheme and the Welsh Assembly Government will be seeking to secure general powers within the legislation referred to above enabling the Assembly to specify the types and size of property to be covered by the scheme, and the amount of relief to be given.

Revenue Funding

Discussions with the UK Government whether there is scope for simplifying the system of funding police authorities in Wales. Seeking views both on whether capital funding of the fire service should become a function of the Assembly Government and also more fundamentally whether policy responsibility for the fire service in Wales (with some exceptions such as terms and conditions of service) should also rest with the Assembly Government.

Capital Funding

The paper signals the Assembly Government's commitment to the introduction of the prudential borrowing system in Wales. Officials are in the process of negotiating with the Department of Transport, Local Government and the Regions and the Treasury to ensure that the Assembly will have discretion over how the system is operated in Wales. The implementation of the system will require primary legislation and if a bill is brought forward in the autumn, the earliest implementation date will be April 2004.

Investments

The Assembly Government has already consulted on improvements to the local authorities investment framework and as a result secondary legislation was brought forward which came into effect on 1 April to add triple A rated money market funds and a deposit facility with central government to the list of approved investments. It is planned that a further piece of secondary legislation be placed before the Assembly in the summer which will remove the distinction in the current legislation between debt free and non debt free authorities (which provides further investment freedoms for authorities with debt) and adds supranational sterling bonds listed in the European Union to the approved investments list. These investment opportunities are a unique Welsh initiative.

Housing Finance

The prudential system will be extended to housing finance but the ring fence will be retained. Consultation is underway on the principle of introducing a major repairs allowance in Wales and support the intention of the UK Government to remove rent rebates from the Housing Revenue Account.

Fees and Charges

The Assembly Government is undertaking a joint consultation with the UK Government in the summer on the proposal to introduce a general power to charge for discretionary services.

Community Councils

Primary legislation will be put in place to index link the section 137 expenditure undertaken by community councils to the Retail Price Index. This will form part of a Bill being proposed for the autumn. Officials have also begun to review the loan sanction system for community councils and will be discussing proposals with stakeholders in the near future.

Welsh Local Government Association Response

The WLGA broadly welcomed the tone of the Policy Statement while expressing disappointment at the 'tentative' nature of some of the proposals, especially those relating to financial reform. The WLGA leader, Sir Harry Jones, saw the paper as promoting:

“... a genuine partnership between the Assembly and local government and it avoids the hectoring tone we have seen in many previous white papers.”

He also welcomed the distinctiveness of the Assembly’s proposals from those of England. However, he felt that the financial chapters of the paper seemed, ‘to shy away from fundamental reform’.⁶³ At the April meeting of the WLGA Co-ordinating Committee members made discussed the paper and made a number of points, including:

3. A case should be put forward by the Association to replace Regional Committees with 22 Strategic Partnership bodies (one for each local authority).
4. It was inappropriate to look at the question of the reduction/expansion of the number of local authority members until after the local authority elections in 2004.
- There was a need to reduce the number of Assembly schemes and strategies - the current volume cannot be realistically dealt with through the resources available to local authorities.⁶⁴

⁶³ WLGA Press Release, March 2002.

⁶⁴ WLGA Co-ordinating Committee Minutes, 26 April 2002.

7. RELATIONS WITH WESTMINSTER AND WHITEHALL

*Jane Williams, Department of Law, University of Wales, Swansea, and
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Assembly Debate on Reform of the House of Lords

In March the Assembly debated reform of the House of Lords. On the face of it this is not an issue on which the Assembly has much influence. Nevertheless, it poses further questions about the development of Welsh devolution as part of a wider process of constitutional change within the UK⁶⁵. The function and composition of the second chamber is in part affected by the structures for regional government and the form of devolution adopted. The specific issue for the Assembly is how best to discharge responsibility to secure appropriate representation for Wales in a reformed second chamber of the UK by, for example, appointing or electing members. This was not resolved in the debate and will be subject to further discussions between party groups in an attempt to achieve a consensus. Two points of particular interest arising in the debate were:

- Acknowledgement of the need to look less at tradition and more at international experience of the establishment of second chambers of parliament where legislative power is divided between state and regional governments⁶⁶. The point can equally be made in relation to a whole range of issues arising in the course of development of devolution in the UK. Throughout the world there are myriad other regions experiencing a process constitutional change towards increased regional representation and governance. In this quarter the Assembly received delegations from four very different such areas.⁶⁷
- A proposition that, if the role of the Appellate Committee of the House of Lords was to survive⁶⁸, it would be appropriate to appoint law lords from Wales in the same way as at present Scottish law lords are represented in the House of Lords.⁶⁹ Scotland has of course always had a separate legal system and, to a significant extent, separate law. The proposition that Wales be treated in the same way reflects an implicit and as yet not fully explored

⁶⁵ See the White Paper "The House of Lords, Completing the Reform", Lord Chancellor's Department, December 2001, especially para 43 et seq, dealing with representation of the regions in the second chamber.

⁶⁶ See the First Minister, Official Record 7 March.

⁶⁷ Gibraltar, Silesia, Namibia and Ljubljana (Republic of Slovenia)

⁶⁸ The argument against the survival of that role, which is essentially an argument about separation of the powers of the legislature from the judicature, were referred to in the debate on 7 March by several Assembly Members including Jocelyn Davies, Peter Black and Ieuan Wyn Jones. However the point about representation of expertise in Welsh (and indeed Scottish and Northern Ireland) law would apply equally to any supreme court having UK wide jurisdiction.

⁶⁹ See the First Minister, as for note 12.

view that in consequence of devolution Wales is indeed emerging (or re-emerging) as a jurisdiction in its own right. The distinctiveness of the legislative output of the Assembly – whether in the form of its own subordinate legislation or in the form of Wales provisions in primary legislation – is an essential ingredient in that development⁷⁰.

Welsh Affairs Committee's Inquiry into Transport in Wales

The Committee's inquiry is based on terms of reference published in October 2001, which are based on three issues:

1. An integrated transport policy for Wales:

- Responsibilities of the UK Government and the National Assembly for Wales in providing an integrated transport network in Wales.
- Integration of passenger transport provided for by road (including walking and cycling), rail, sea and air; the integration of transport provision in the private, public and voluntary sectors; and the relationship between transport and land use.
- Transport issues which are specific to rural Wales and the Valleys, as well as those which are specific to urban areas, including case studies of transport problems facing particular areas of the country.
- The role of transport in promoting social inclusion in Wales, including access to transport for Disabled people.
- The impact of the Transport Act 2000 in Wales.

2. Railways in Wales

The current and future role of the UK Government, the Strategic Rail Authority and the National Assembly for Wales in providing efficient and affordable rail services within Wales, including:

- The selection of the franchise for Wales and the Borders and the possibility of an all-Wales franchise.
- The future investment required in Wales's railway infrastructure.

⁷⁰ Other ingredients, such as the development of particular approaches in the courts to Welsh public law cases, were outlined by Thomas J. in "The Legal Implications of Welsh Devolution", 1999, Wales Public Law and Human Rights Association.

- The rights and responsibilities of the Strategic Rail Authority in relation to the National Assembly for Wales.

3. Objective 1 funding for Transport Projects

The ways in which European Structural Funds may be used to improve passenger transport services in Wales and the uses to which ESF money has been put in other Member States, including expenditure on moving assets.⁷¹ At an initial meeting of the Select Committee on the subject in November 2001 it was told by the Assembly Committee's Chair, Dr Richard Edwards, that they had consulted on three options for long-term structural change: a passenger transport authority for the whole of Wales, an authority for south east Wales, and strengthening the existing arrangements. Martin Caton, MP for Gower, asked which of the three the Assembly Committee favoured, since, as he put it:

“If you (the Assembly Committee) go for one of the top two, primary legislation is required and we might have a role to play there.”⁷²

To which Dr Edwards responded:

“...we recommended that the Assembly should be seeking enabling primary legislative powers for organisational change and we are asking the Minister to work up proposals, including those for the Passenger Transport Authority option, and to report back to the Committee and to Plenary within six months. We have also asked the Minister to seek the power for the Assembly to direct the Strategic Rail Authority along the lines of the Scottish model, a delegation of responsibility for the Valley lines, plus the right to nominate a member of the Strategic Rail Authority. We are also seeking representation for Wales on whatever the successor body to Railtrack is going to be ... [although] there is not a consensus on the Committee about a particular model.”⁷³

The Chair concluded that the two messages the Select Committee learned from that session were that, firstly, the Assembly Subject Committee wants the Select Committee to help in press for more formal powers for enabling legislation, and secondly, to help it secure more resources.

House of Lords Select Committee on the Constitution

⁷¹ Welsh Affairs Committee, Press Notice No. 4 of Session 2001-2002, 24.10.2001.

⁷² Welsh Affairs Committee, Minutes of Evidence, 29.November 2001.

⁷³ *Ibid.*

The House of Lords Select Committee on the Constitution has begun an inquiry into the workings of devolution, and in particular an examination of the inter-institutional relations within the United Kingdom. The inquiry is proceeding to analyse five key areas, as laid out in its detailed terms of reference⁷⁴:

1. Relations Between the Administrations

a. The formal structure and the operation of inter-governmental relations (IGR)

Is it adequate? Can it deal with the demands likely to be placed upon it? Are the mechanisms appropriate and what use has been or could be made of them? Has the use of informal arrangements for IGR weakened the formal mechanisms? How would the system adapt to more contentious political relations between the United Kingdom Government and the devolved administrations?

b. Arrangements within the Government of the United Kingdom

What are the roles of the Secretaries of State for Scotland, Wales and Northern Ireland; and of the Cabinet Office?

c. Machinery and practice for dispute resolution

How adequate and appropriate are the arrangements (as yet largely untested) for the resolution of political (Joint Ministerial Committee) and legal (Judicial Committee of the Privy Council) disputes between the four administrations, especially if the disputes were to be politically charged?

d. Finance, fiscal matters and the Barnett formula

How is funding allocated to the different parts of the United Kingdom; and what consequences arise? How satisfactory are these arrangements? In particular, how, and in what circumstances, is funding allocated outside the Barnett formula? In the light of the principles of devolution, how appropriate is it that finance disputes would ultimately be resolved in the United Kingdom Cabinet?

2. The role of the Parliaments and Assemblies

a. The role each legislature plays in scrutinising inter-governmental relations as conducted by its own administration

⁷⁴ House of Lords Committee on the Constitution, Current Inquiries, Session 2001-2001.

What does each legislature do in this area? How can Westminster learn from the practice of Belfast, Cardiff and Edinburgh? (We intend this to be a thorough, comparative information-gathering exercise.)

The nature of relationships between the legislatures in the United Kingdom - What relationships exist directly between the legislatures?

- b. Consideration and scrutiny of Westminster legislation affecting the devolved institutions

Westminster continues to legislate for the devolved parts of the United Kingdom. How appropriate is the convention that the United Kingdom Government will not ask Westminster to legislate regarding a devolved matter without the consent of the legislature of that part of the United Kingdom? How appropriate are 'Sewel' motions and their use to date? Is this practice consistent with the principles of devolution? Should there be any change in the legislative relationship between Westminster and Holyrood? What issues arise from Westminster legislation for Scotland not involving the Sewel convention, such as the creation of criminal offences in Scots law arising from reserved matters?

3. European Union

- a. Input from the devolved institutions

What relationships do the devolved administrations and legislatures have with the European Union? What mechanisms exist for their input into European Union policy-making? How much are these used and how effective are they?

- b. Principles of devolution and transposition/implementation

How does the European Union affect the operation of the principles of devolution and devolved functions? Has devolution affected the transposition and implementation of European Union obligations within the United Kingdom? If so, should any changes be sought in these arrangements?

- c. Devolved matters

What issues arise with the implementation of EU obligations relating to devolved matters?

4. Crown service

While each government within the United Kingdom has its own staff, officials in the devolved administrations in Scotland and Wales remain part of the home civil service.

The Civil Service Code has been amended to provide that civil servants owe their loyalty to the Administration in which they serve. How has this worked in the devolved institutions, particularly in relation to loyalty and impartiality? Does a single home service remain desirable and feasible? If so, is any measure required to assist it?

5. The United Kingdom

What consequences has the devolution legislation had, or could have, for the unity of the United Kingdom?"

8. RELATIONS WITH THE EUROPEAN UNION

Mark S. Lang, Welsh Governance Centre

The Wales Euro Taskforce

A discussion was held on the implications for the Wales Euro Taskforce from the introduction of the single European currency on 1 January 2002. The Euro Task Force, which was established in 1998, exists to provide information and practical guidance on the Euro to businesses in Wales. In March the Assembly's European and External Affairs Committee was reminded that the role of the Assembly Government is:

“... to ensure that business in Wales is alert to the many consequences and opportunities of Economic Monetary Union. It also has a responsibility to ensure that the Assembly and its Assembly Sponsored Public Bodies (ASPBs) are in a position to ensure an effective changeover to the Euro in the event of a "yes" vote.”⁷⁵

The Euro Task Force for Wales was established in November 1998 with the remit of disseminating information and providing help to businesses in preparing for the introduction of the Euro, regardless of whether the UK joins the single currency. It is chaired by Peter Graham-Woollard and includes representatives from the business community in Wales.

Early on the Task Force discovered that many businesses were slow to recognise the implications of the Euro. They either could not or would not see its relevance to their business. Since then, the response has been varied and there has been a slight upsurge in interest more recently, with the introduction of notes and coins.

While the work of the Task Force in its present form may have been largely overtaken by events, there appears to be a continuing call for businesses in Wales to be provided with information and practical advice on the Euro. At its last meeting on 28 January, the Task Force Steering Group agreed that it would continue until at least the end of June.

In order to form a view on whether or not the Taskforce should continue the Committee requested a paper on its activities and funding arrangements. The paper stated that the work of the Group, annual budget is £40,000, has been taken forward in a number of ways, including presentations, conferences, exhibitions, a telephone helpline with access to an expert panel, an information website and leaflet distribution.⁷⁶

⁷⁵ Minutes of the European and External Affairs Committee, 20.March.2002.

⁷⁶ Minutes of the European and External Affairs Committee, 8.May 2002.

European Regions with Legislative Powers

The group called "Regions with Legislative Powers" consists of representatives from regions where a directly elected chamber of government exists below the State level, "that has power to legislate or to take significant executive decisions". The key factor is having a direct electoral mandate.⁷⁷

The following Member States of the European Union have some kind of directly elected regional government system: UK, Belgium, Germany, Austria, Italy, Spain and Sweden. The Regions with Legislative Powers group is a loose affair. There is no formal procedure for joining and its membership has emerged naturally over the last couple of years. An initial meeting was hosted by the Flanders government in Brussels in September 2000, while the first properly constituted Regions with Legislative Powers annual conference was held in Barcelona the following November. Assembly First Minister Rhodri Morgan attended both these events.

A small group of seven regions produced the Flanders declaration in May 2001. This group became the de facto steering group for the Regions with Legislative Powers. As a result of lobbying in Brussels, the Assembly joined the steering group in July 2001 in time to influence the shape of the second annual conference in Liege in November 2001. The First Minister was, at the last minute, unable to attend the Liege conference through illness but he was represented at official level and his contribution was entered onto the official record.⁷⁸ The third conference will be in Tuscany in November 2002 and Wales is on the steering group that will prepare its agenda and draft declaration.

⁷⁷ Minutes of the European and External Affairs Committee, 20.March 2002.

⁷⁸ *Ibid.*

9. POLITICAL PARTIES

Denis Balsom, Welsh Governance Centre, Cardiff University and John Osmond, IWA

Preparing for the Forthcoming National Assembly Elections

Thursday 2 May saw a flutter of mild anticipation in the media as the calendar reached 'Election Day minus one year'. Unlike many parts of England, no local government elections were held in Wales on that day and the coming Assembly elections in May 2003 will be the next big electoral test for the parties of Wales. In the absence of regular public opinion evidence, it is difficult to assess the current mood of the electorate and extrapolate forecasts of the election outcome. However, the political parties have held their conferences to debate policy and are busy nominating candidates for the coming contest.

The novel element of this preparation period is the need to address the peculiarities of our new electoral system. The elections of May 2003 will be only the second occasion that the hybrid majority/PR method of electing the Assembly has been put to the test. Against all expectations in 1999 a minority Labour administration was returned. Is the new system always likely to deny Labour a majority?

Of the present contingent of 60 AMs, only seven have announced their impending retirement and intention not to contest the coming election. Amongst the Labour group this means that 16 seats will need new candidates and, following the announcement of Delyth Evans's retirement as Labour's only List Member, for Mid and West Wales, all the Labour regional electoral lists will also need to be redrawn.

At the last Assembly elections the Labour Party pioneered the principle of 'twinning' to ensure equitable representation for women amongst their candidates. In the end 15 women were elected out of 28 AMs and currently 16 women sit for Labour in the Assembly - following Delyth Evans's substitution for Alun Michael. Although the policy was clearly effective, many in the Party were unhappy about its imposition and its infringement of local party autonomy. Perhaps surprisingly, given the amount of anguish generated last time, Labour have adopted a new policy for 2003. From the sixteen seats seeking new candidates, six have been required by the party executive to nominate all-women shortlists. The use of restricted shortlists had previously been advocated by Labour, but the proposal was found to be in breach of employment law. Following necessary amendments to statute, this system of ensuring female selections has been re-adopted for the Assembly elections and, presumably, will be used by Labour to select candidates for future elections elsewhere in Britain.

Initially the Labour Party asked constituency parties to volunteer to host an all-women shortlist, but only one seat, Montgomery, responded. Five further seats were

therefore required by the National Executive to follow suit, giving three seats to women from amongst the eight most competitive contests and a further three from the eight less competitive constituencies. Consequently in Delyn, Llanelli, Monmouth, Ceredigion, Brecon and Radnor and Montgomery Labour will nominate women candidates together with the existing 14 female Labour AMs seeking re-election. Whilst Labour will have the opportunity to nominate further female candidates on its regional lists, few can be expected to be elected due to Labour's expected dominance in the constituency section of the election.

The other parties are also addressing the issue of gender balance amongst their candidates, but generally in a less formal manner than that adopted by Labour. Plaid Cymru have changed their practice and no longer require all nomination shortlists to include at least one woman. However, Plaid Cymru will exercise positive discrimination in favour of women in nominations to the regional lists. As in 1999, the lead name on each Plaid Cymru list will be a woman. Instead of alternating genders on the list as before, however, where the lead woman is also a candidate in a target seat, that is one with a high probability of election, the second name listed will also be that of a woman. This second place proviso is important. For example, although Helen Mary Jones is expected to retain Llanelli she is still likely to be listed number one on the Mid and West Wales list. In this case the second name on the list will also be that of a woman. It is also expected that two of Plaid Cymru's existing list members, Jocelyn Davies and Pauline Jarman will not fight seats, but ensure election through heading their respective regional lists.

The Liberal Democrat group in the Assembly currently includes three women amongst their six AMs. This balance however was achieved more by chance than conscious decision. For the coming election, the Liberal Democrats require at least one third of those selected for any constituency shortlists to be women, but thereafter nomination is on merit. The Liberal Democrat regional lists are selected separately and nomination is by a postal ballot of members within the respective list area.

The Conservative Party in Wales has no formal mechanism to ensure gender balance but instructs local parties to nominate purely on merit. Nomination to the Conservative regional lists is solely from candidates who have already been adopted to fight seats, with the all-important rank order being determined at a hustings meeting in front of party delegates.

A degree of novelty attaches to the Assembly elections because we do not have the established patterns of convention and past practice that govern most procedures in British politics. For example, because the National Assembly is elected for a fixed term, the date of dissolution cannot be selected by the First Minister, as is the case for a Westminster General Election. It is expected that the Assembly will work through to the Easter recess next year, but then not re-convene until after the election has been held on 1 May. This timetable would give a campaign period of about three weeks, matching the normal convention for general elections. It is conceivable however, that the Assembly could continue to meet until much closer to election day, but this would carry the risk of chamber business deteriorating into little more than constant electioneering.

The Westminster convention of the Speaker effectively being unopposed will not prevail in Wales. The mechanics of the electoral system make it difficult for the

Presiding Officer to contest his constituency seat other than as an official Plaid Cymru candidate. Although it is widely assumed that Dafydd Elis-Thomas will continue in the post, the first task of the newly elected National Assembly when it meets will be to elect a Presiding Officer before going on to elect the First Minister.

Preparation for the forthcoming National Assembly elections will continue throughout the summer and Welsh politics will probably assume full time election mode in the autumn session. The postponement of local election until 2004 was designed, in part, to give the Assembly elections the status of a Welsh General Election and, hopefully, engage the public to a greater degree than prevailed in 1999. Events in Wales however, may yet be overwhelmed by the other ballot anticipated this Parliament - the referendum on British membership of the common European currency. Rumours and speculation have consistently included May 1st 2003 as a likely referendum day. As well as the elections to the Welsh Assembly and Scottish Parliament, local government elections will also be held across England on that day. Although Rhodri Morgan has said that he would not welcome any move to combine these votes, Tony Blair may well see the device of holding the referendum concurrent with these elections as a way of frustrating the Opposition, not least the pro-European Nationalist parties of Wales and Scotland.

PR for Local Government Sparks Coalition Tension

A potential break point for the coalition Assembly Government was prompted by Welsh Labour's Spring conference in Swansea rejecting proportional representation for local government. Under the Partnership Agreement between Labour and the Liberal Democrats a Commission, chaired by Eric Sunderland, former Principal of the University of Wales Bangor, is currently examining local government electoral arrangements and is due to report in June. It is anticipated that it will recommend a version of PR for Welsh local elections. Reports suggest it may recommend the single transferable vote system (STV) for urban areas in Wales and the alternative vote system (AV) for rural Wales.

However, on the face of it this has now been ruled out in advance by one side of the Coalition. A report from Labour's Welsh Policy Forum, the evidence submitted by the party to the Sunderland Commission, was adopted unanimously by the conference, though without a debate. It states that:

“... a Labour led Assembly would not pursue primary legislation with a view to changing the system of elections in local government.”

It seems unlikely, however, that this will find its way into Labour's manifesto for next May's Assembly election. It is not a devolved matter and consequently there is no need for the party in Wales to take a stand on the issue one way or another. Rather, the leadership may prefer to await the outcome of the election to see whether it obtains a majority or whether it will need to negotiate a fresh coalition with the Liberal Democrats. On the other hand it will be difficult to avoid a debate on the outcome of the Sunderland report in the National Assembly before the election.

Ron Davies Pitches for Leadership

On the eve of Labour's Spring conference in Llandudno in March Caerphilly AM and former Secretary of State for Wales Ron Davies, let it be known that he would be interested in returning to the leadership, some time before the 2007 Assembly election. Although First Minister Rhodri Morgan, now 62, has given no hint of a wish to retire, few expect him to lead the party into the 2007 election.

Interviewed by the Western Mail Ron Davies said that if he were to win a Welsh Labour leadership election he would be "committed to radical and dynamic policies" and "a more open, honest, and inclusive regime".⁷⁹ He is currently pressing the case for a review of the Barnett formula and has been a constant critic of the Assembly Government's economic policies, casting doubts on its objective of increasing Welsh GDP from 80 per cent to 90 per cent of the UK average being attained by 2010. He said he would be pressing the Assembly Government to "face up to the serious questions of the Welsh language and rural communities."⁸⁰

In a new election for leader Ron Davies would be eligible to stand since the party has recently amended its rules which now enable all AMs to compete. Previously, a leadership bid was confined to members of the Cabinet, which prevented him standing when Alun Michael was deposed in the no confidence vote in January 2000. At that time his troubles emanating from the Clapham Common incident which forced his resignation as Secretary of State for Wales in October 1998 were still reverberating.

Other contenders in a Labour leadership election would be likely to include Carwyn Jones, Business Manager and Rural Affairs Minister, Jane Davidson, Education Minister, and Edwina Hart, Finance Minister.

Plaid Cymru Shadow Cabinet Re-shuffle

Retirement of three leading AMs at the forthcoming election has prompted Ieuan Wyn Jones to re-shape his leadership team in the National Assembly. North Wales List AM Janet Ryder replaces former leader Dafydd Wigley as Finance spokesperson; Ceredigion AM Elin Jones replaces Phil Williams as Economic Development spokesperson; and Conwy AM Gareth Jones takes over as Chair of the education Committee in place of Cynog Dafis.

⁷⁹ Western Mail, 19 March 2002.

⁸⁰ *Ibid.*

Dafydd Wigley has moved to Chair the Audit Committee. He has also taken on the task of leading the party's Valleys campaign in the May 2003 election. This led to speculation that he might stand in the Valleys – the Merthyr seat was mentioned – and attempt to get on the regional list in South-East Wales. The speculation was denied but the prominence of the stories suggests the possibility remains open.⁸¹ Phil Williams is to become a policy advisor in the party's new Policy Development Unit. He will work alongside Cynog Dafis as policy director, concentrating on financial matters, particularly in relation to the Welsh economy and health.

In April Dafydd Iwan the high profile folk singer, Gwynedd councillor and former leading figure in Cymdeithas yr Iaith (the Welsh Language Society), was elected unopposed to the new post of party Vice President. The position was created as part of a revamping of Plaid's Constitution at the end of 2001 to establish a leading figure outside the National Assembly. The new portfolios in the National Assembly, announced in March, are

Leader	Ieuan Wyn Jones AM
Business Manager and Chief Whip	Jocelyn Davies AM
Economic Development	Elin Jones AM
Finance, Local Government and Communities	Janet Ryder AM
Health and Social Services	Dai Lloyd AM
Education and Lifelong Learning	Helen Mary Jones AM
Environment Transport and Planning	Janet Davies AM
Rural Affairs	Rhodri Glyn Thomas AM
Culture, Sport and Welsh Language	Owen John Thomas AM
Valleys Spokesperson	Geraint Davies AM
Chair of the Education Committee	Gareth Jones AM
Chair of the Culture Committee	Rhodri Glyn Thomas AM
Chair of the Audit Committee	Dafydd Wigley AM
Spokesperson on Small Businesses	Brian Hancock AM
Spokesperson on Energy	Phil Williams AM
Spokesperson on Sustainable Development	Rhodri Glyn Thomas AM
Spokesperson on Equal Opportunities	Helen Mary Jones AM

Welsh Conservatives Debate Party Autonomy

Greater autonomy for the Welsh party has been demanded by one of its leading figures, former Brecon and Radnor MP Jonathan Evans now leading Conservative MEPs in the European Parliament:

“... further organisational changes will be required if we are to meet the challenge of making the Conservatives the leading force in Welsh politics. Central to this project must be the organisation of the way the Party is run from within Wales. Ron Davies has rightly pointed out the contradiction of Labour

⁸¹ See Western Mail reports, 11 and 13 May 2002.

facilitating the transfer of powers from Westminster to Cardiff and then not exercising parallel decision-making in respect of its own party organisation.

Conservative Central Office in London appears to have adopted a somewhat ambivalent approach towards autonomy in the party structure in Wales and the English regions. For many years the party organisation was run on a regional basis with strong regional offices. As the Party finances have contracted and the Party machine in London has grown, we have gradually seen the erosion of the Conservative Party's regional structures. I believe that we are now at the time when Central Office staff in Wales must come fully under the control and remit of the Welsh Conservative Party.”⁸²

Meanwhile, an internal draft report on organisational change within the party, prepared by former Welsh Office Minister Lord Roberts, recommends that a leadership election within the National Assembly should only occur if a majority of the Conservative Group call for one. At present a contest can be triggered if just two of the Conservative AMs wish for one to take place. The report also calls for:

- Distinctive policies for the party to be developed by a “high quality, high powered thin tank which will not be distracted by day-to-day matters.”⁸³
- A panel to vet all candidates seeking to stand for Parliament in Wales - a process that would have the effect of barring candidates with few local roots.
- An independent disciplinary committee to be set up with a legally qualified chairman to deal with complaints against members in Wales – a recommendation prompted by the experience of dealing with the former party leader in Wales, Rod Richards.

Liberal Democrat Conference Adopts ‘Action Areas’ for Welsh language

The creation of Welsh language action areas in the heartlands of west and north Wales received unanimous support at the Welsh Liberal Democrat Spring conference in Llandudno in April. Under the proposal special planning and financial regimes would be established in areas where Welsh remains the main language of everyday use.

Approval was given to a wide-ranging policy paper outlining a radical approach to the language that marked a significant shift in Liberal Democrat attitudes to the language, especially in its heartland areas.⁸⁴ Language Action Areas would be established as consortia, with resources and responsibility for: entrepreneurship, university spin-offs, community animation, developing the social economy, adult education and welcome

⁸² Jonathan Evans, *The Future of Welsh Conservatism*, IWA Gregyog Papers, May 2002

⁸³ Quoted in the Western Mail, 2 May 2002.

⁸⁴ *Culture, Citizenship and Communities: The Welsh Liberal Democrat commitment to bi-lingualism and sustaining Welsh as a living language*, April 2002.

centres, rural diversification, environmental training, assisting housing stock transfer and working with local authorities to gauge local housing need.

Language Action Areas would be incorporated as Rural Development Companies, enjoying tax breaks similar to Urban Regeneration Companies, to facilitate private sector investment. Key stakeholders would include community and local authorities, the voluntary and private sector, as well as Mentrau Iaith, which bridge the community use of Welsh with community development.

10. THE PRESS AND THE MEDIA

Nia Richardson, IWA

Mike German Affair Reverberates

The police investigation into the Liberal Democrat leader Mike German's activities when working as European officer with the Welsh Joint Education Committee prompted more media controversy in early March. It was revealed that Jon Shortridge, the Permanent Secretary at the Assembly, had been receiving reports from the South Wales Police on the progress made with the investigation and had been passing the information on to First Minister, Rhodri Morgan.⁸⁵

The focus of the attention quickly turned to the fact that Economic Minister Andrew Davies had in previous months consistently denied that the Administration had been in contact with the police over the investigation. When he issued a statement to the press in January 2002, stating that the police investigation was in the 'home straight', Andrew Davies, then Business Minister, told reporters that there had "been no direct communications between Rhodri Morgan and South Wales Police."⁸⁶ He had appeared on the BBC Wales's *Dragons' Eye* towards the end of February denying that the administration in "any way, shape or form" had been in contact with the police over the Mike German investigation.⁸⁷

The media and opposition leaders in the Assembly began to question whether Andrew Davies had known about the contact between the Permanent Secretary and the police when he made these statements. If he had known, he had misled the media and the Assembly. On the day the revelations were made Andrew Davies was alleged to have had a BBC camera crew removed from a media event he was attending.⁸⁸

The following day, First Minister Rhodri Morgan gave a plenary statement on the matter and criticised the media for "entirely disproportionate speculation".⁸⁹ He also told plenary that as far as he could recollect no Cabinet Minister other than himself and Jenny Randerson (Lib Dem) knew of the communication between the Permanent Secretary and the police. However, he backtracked on this statement later in an interview with the Welsh Mirror revealing that:

"Mr. Davies was aware that a channel of private communication existed between the Permanent Secretary and South Wales police."⁹⁰

⁸⁵ *Western Mail* 4 March 2002

⁸⁶ *Ibid.*

⁸⁷ *Dragon's Eye* 28 February BBC Wales

⁸⁸ *Western Mail* 5 March 2002

⁸⁹ *Assembly Record*, 5 March 2002

⁹⁰ *Welsh Mirror* 6 March 2002

Opposition members in the Assembly were angry that the First Minister's statement to the Assembly was inconsistent with what he had told the Welsh Mirror. Nick Bourne, leader of the Conservatives declared:

“This is a serious issue. The First Minister should now clarify which Ministers in his Cabinet knew of the contact. He undertook to do that. If he is briefing the press about where the contacts were, he should come to the Assembly and tell us.”⁹¹

In London, the Guardian reported the row was putting the Assembly Government in crisis, commenting:

“Unless the affair is sorted out soon, the coalition that keeps the executive in power looks likely to collapse.”⁹²

However, the episode caused no ministerial casualties, though it was evident that the First Minister was infuriated by the amount and style of coverage the story had received in the press. In his interview with the *Welsh Mirror* he accused the media of having ‘a scalp-hunting psychology’ and attacked the BBC on its integrity and impartiality.⁹³

First Minister Takes on WRU

First Minister, Rhodri Morgan ran into a war of words with the Welsh Rugby Union in April. In an extraordinary public attack he told the media that:

“The National game is in crisis. It is in tatters at the top. I am asking people to stand up and be counted or see the game wither on the vine. It does mean the perks going, the blazers, the status and the sense of participation ... The WRU is making financial losses, the Millennium Stadium is saddled with debt and there is a risk of the game's benefactors walking away. Those problems can only be solved if there is a complete restructure.”⁹⁴

Welsh Rugby Union officials were furious that Mr. Morgan had chosen to go public with his comments,

“These concerns have never been formally raised with the WRU before today's rather extraordinary statement, even though the First Minister has been a regular visitor to the Millennium Stadium to watch international matches.”⁹⁵

⁹¹ *Assembly Record*, 7 March 2002.

⁹² *Guardian* 6 March 2002.

⁹³ *Welsh Mirror* 6 March 2002.

⁹⁴ *Western Mail*, 27 April 2002.

⁹⁵ *Western Mail*, 27 April 2002.

Welsh Mirror Defends Its Integrity

The Editor of the *Welsh Daily Mirror* was given a column in the *Western Mail* in May to respond to a letter which had appeared in the *Western Mail* accusing the paper of being a ‘propaganda machine for the Labour Party’. Mike Graham, the *Mirror*’s editor robustly defended his newspaper:

“In the past we have ignored such accusations. But in the months leading up to next year’s Assembly elections I feel it is time to set the record straight. The *Welsh Daily Mirror* is nobody’s propagandist. We are aligned to no political party. We seek merely to expose all politicians of all parties to the scrutiny that those who pay their wages would like us to do.

“We do not slavishly support Labour policy. Indeed sometimes the *Welsh Daily Mirror* is the party’s’ fiercest critic. When the Cardiff Bay Assembly voted to build the Millennium Arts Centre at a cost of tens of millions of pounds to the taxpayers, we were the only newspaper to attack Rhodri Morgan and his cabinet or squandering money that could have been better used in rebuilding some of Wales’s shattered communities ... Indeed if your readers would like to ask Mr. Morgan if his relationship with our newspaper is a cosy one, he would say that we very often get up his nose.”⁹⁶

⁹⁶ *Western Mail*, 16 May 2002