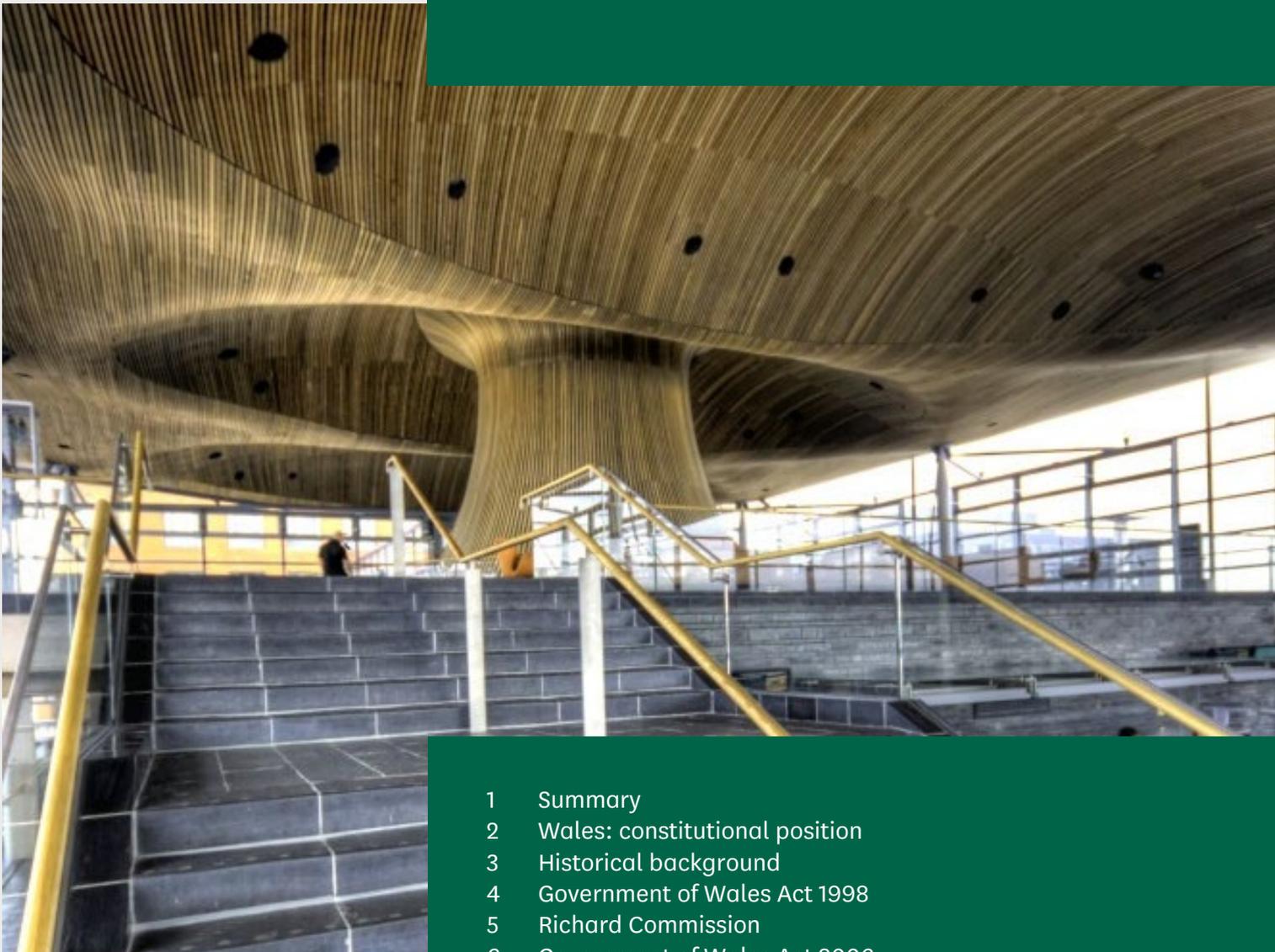


Research Briefing

13 May 2024

By David Torrance

Devolution in Wales: "A process, not an event"



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1

Summary

Prior to the 1997 referendum on devolving power from Westminster to Wales, the then Secretary of State for Wales, Ron Davies, memorably referred to devolution as “a process, not an event”.¹ In a pamphlet published ahead of the first elections to the then National Assembly for Wales in May 1999, he explained:

Devolution is a process. It is not an event and neither is it a journey with a fixed end point. The devolution process is enabling us to make our own decisions and set our own priorities, that is the important point. We test our constitution with experience and we do that in a pragmatic and not an ideologically driven way.²

The story of devolution in Wales in the quarter century since the Government of Wales Act 1998 received Royal Assent on 31 July 1998 illustrates Davies’ point, for the “process” of devolution continues to this day.

This briefing paper summarises the main developments regarding devolution in Wales since 1998. It begins by setting out the current constitutional position before examining five broad phases of devolution:

- administrative devolution (1964-1999);
- executive devolution with secondary law-making powers (1999-2007);
- executive devolution with enhanced secondary powers (2007-2011);
- legislative devolution under a “conferred powers” model (2011-2018);
- legislative devolution under a “reserved powers” model (2018-).

In doing so, this paper revisits the key pieces of legislation involved in each phase, beginning with the Government of Wales Act 1998 and continuing with the Government of Wales Act 2006 and Wales Acts of 2014 and 2017. It also looks at the work of the Richard, Holtham and Silk Commissions in shaping those Acts of Parliament and, finally, summarises ongoing debates concerning Wales’s constitutional future.

¹ See, for example, Return of the Welsh Nation, Times Higher Education Supplement, 12 September 1997.

² Ron Davies, Devolution: A Process Not an Event, Cardiff: Institute of Welsh Affairs, 1998, p15.

2

Wales: constitutional position

Summary

On 1 April 2018 – almost twenty years after the Government of Wales Act 1998 gained Royal Assent – a new “reserved powers” model of Welsh devolution came into effect. In other words, instead of Senedd Cymru/the Welsh Parliament (generally known as “The Senedd”) only having the power to make law on matters specified in the Government of Wales Act 2006 (the “conferred powers” model), it could now legislate on any matter not expressly “reserved” to the UK Parliament.³

2.1

Reserved powers

Schedule 7A of the Wales Act 2017 amended the Government of Wales Act 2006, setting out all the areas in which powers are fully or partially reserved, rather than listing 20 broad “subject” areas in which the then National Assembly could pass laws. The Senedd website has a [detailed list of all reserved powers](#).⁴

In addition, the Wales Act 2017 granted the Senedd and Welsh Ministers new powers over:

- elections, electoral administration, election dates, voting age, size and name of the then National Assembly;
- raising landfill tax and land transaction tax; setting council tax and business rates;
- varying income tax rates (as of April 2019);
- onshore petroleum licensing and electricity generating stations;
- road transport, harbours and ports, marine licensing and conservation;

³ Wales Office News Release, [New powers model for Wales comes into force on 1 April 2018](#), 30 November 2017.

⁴ Senedd website, [Role of the Senedd and how it works-Powers](#).

- equal opportunities.⁵

On 1 April 2019, the UK Government reduced the basic, higher and additional rates of income tax paid by Welsh taxpayers by 10% in order to enact the 2017 Act's partial devolution of income tax to Wales. The then National Assembly subsequently agreed the proposed [Welsh rates of income tax for 2019-20](#), which meant there was no change to overall income tax rates.

2.2 UK Parliament

Even under the new "reserved powers" model, the UK Parliament – as is the case in Scotland and Northern Ireland – remains legislatively supreme in relation to all UK law. This means it retains the right to legislate, should it wish to do so, in all areas relating to Wales.

By convention, however, the UK Parliament does not normally pass laws on devolved areas without first obtaining the consent of the Senedd via a mechanism known as a Legislative Consent Motion (LCM).⁶ There are a number of examples in recent years where the Senedd has voted against giving consent to UK Government Bills which have then been passed by the UK Parliament, such as the [Professional Qualifications Bill](#).

At Westminster, the [Welsh Affairs Committee](#) examines matters within the responsibility of the Secretary of State for Wales (including relations with the Senedd), while the [Welsh Grand Committee](#), a committee comprising every Welsh MP plus up to five others, "debates issues relevant to Wales".⁷

2.3 The European Union

Through the UK's membership of the European Union (EU), Wales was subject to decisions about legislation and policy made at EU-level and applicable to all Member States.⁸

On 23 June 2016, 52.5 per cent of Welsh electors voted to Leave the EU, with 47.5 voting to Remain, a margin similar to that across the UK as a whole. Subsequently, the UK Government made it clear the UK would cease to be a member of the EU on 31 January 2020 with an expected transitional period lasting until the end of 2020.

⁵ Senedd website, [Role of the Senedd and how it works-Wales Act 2017](#).

⁶ See House of Commons Library Briefing Paper 08274, [Brexit: Devolution and legislative consent](#).

⁷ UK Parliament website, [Grand Committees](#).

⁸ Senedd website, [Role of the Senedd and how it works-Governance of Wales: Who is responsible for what?](#)

The [European Union \(Withdrawal\) Act 2018](#) amended the Government of Wales Act 2006 to reflect the UK's withdrawal from the EU. As the previous European Union (Withdrawal) Bill (EUW Bill) entailed changes to the legislative competence of the then National Assembly, there were negotiations between the Welsh and UK Governments.

Initially, Carwyn Jones, the then First Minister of Wales, was unhappy with the clause 11 of the EUW Bill, which would have restricted the legislative and executive competence of the then National Assembly with respect to retained EU law. He claimed it would amount to a "naked power grab".⁹

The then National Assembly passed an [EU Continuity Bill](#) to make provision for continuity of EU law in devolved areas, although on 28 April 2018 the Welsh Government reached an agreement with the UK Government on changes to clause 11.¹⁰ The Welsh Continuity Bill was subsequently repealed and its reference to the United Kingdom Supreme Court withdrawn.¹¹

2.4 Senedd Cymru/Welsh Parliament

Following a public consultation, legislation to change the name of the National Assembly for Wales to "Welsh Parliament" in English and "Senedd Cymru" in Welsh was passed by Assembly Members (AMs) on 27 November 2019 and given Royal Assent on 15 January 2020. The name took effect on 6 May 2020.¹² The institution is commonly referred to as "the Senedd" (Welsh for "Parliament").

There are currently 60 Members of the Senedd (MSs), consisting of 40 constituency representatives and 20 representing five multi-member regions. Regional members are elected, as in Scotland, via the Additional Member closed-party-list system to ensure a high degree of proportionality vis-à-vis total votes cast. From 2026, the Senedd will increase in size to 96 Members elected via "closed lists" in 16 large constituencies.¹³

Following each election, which since 2011 are held every five years, the Senedd elects one of its Members to serve as Presiding Officer ("Llywydd" in Welsh), and another to serve as a deputy. The Llywydd also chairs the Senedd Commission. Both the Presiding Officer and the Deputy Presiding Officer are expected not to vote in the Senedd.

⁹ [Brexit Bill is a naked power grab, Carwyn Jones claims](#), BBC News online, 13 July 2017.

¹⁰ Cabinet Office press release, [European Union Withdrawal Bill – Agreement between the UK and Welsh governments](#), 25 April 2018.

¹¹ See House of Commons Library Briefing Paper CBP8275, [Legislative Consent and the European Union \(Withdrawal\) Bill \(2017-19\)](#).

¹² See Commons Library Insight blog, [Senedd Cymru: Why has the National Assembly for Wales changed its name?](#), 6 May 2020.

¹³ [Senedd votes to increase number of politicians in Welsh parliament and change voting system](#), ITV Wales website, 8 May 2024.

The First Minister is appointed by the King following a vote in the Senedd, and if no candidate is elected within 28 days of polling day, then fresh elections are necessary.¹⁴ The Senedd meets in plenary every Tuesday and Wednesday, as well as in several committees, of which there are currently 13.¹⁵

Since 2006, the Senedd has been based at its eponymous custom-built home in Cardiff Bay. Cardiff Bay is used as shorthand for Wales's governing institutions, just as "Westminster" and "Whitehall" are substituted for the UK Parliament and Government in London.

2.5 How primary legislation is passed

As with other legislatures in the United Kingdom, proposed legislation in Wales is known as a "Bill" until it becomes an "Act" following a five-stage process:¹⁶

- **Stage 1:** Members of the Senedd decide if new legislation is needed.
- **Stage 2:** A Senedd Committee carries out close examination of the Bill by taking evidence from experts, before suggesting changes.
- **Stage 3:** Members meet in plenary to look at the Committee's report and the Bill; they review the suggestions, debate and make final changes to the Bill's wording.
- **Stage 4:** Members of the Senedd vote to approve the Bill.
- **Stage 5:** The Bill is given Royal Assent and becomes an Act of the Senedd. The word "Wales" is inserted in brackets to distinguish it from Westminster legislation.

Most Bills in the Senedd are introduced by the Welsh Government, although legislation can also be initiated by committees, the Senedd Commission, individual Members of the Senedd and public bodies or local authorities via private/hybrid Bills.¹⁷

¹⁴ Commons Library Insight, [How is a Welsh First Minister appointed?](#), 18 March 2024.

¹⁵ Senedd website, [Welsh Parliament Business-Committees](#).

¹⁶ Senedd website, [Making Laws](#).

¹⁷ Russell Deacon et al, *The Government and Politics of Wales*, Edinburgh: Edinburgh University Press, 2018, pp128-30.

3

Historical background

Summary

The union of Wales with England was one of the first stages in the formation of what is today known as the United Kingdom of Great Britain and Northern Ireland. Under the [Laws in Wales Acts of 1535](#) and 1542, England and Wales became a single state; the law of England became the only law of Wales, and English – rather than Welsh – the only recognised language.

Political demands for Welsh autonomy were first articulated in the late 19th century,¹⁸ although it was not until the 1960s that renewed constitutional debate led to the appointment of a Royal Commission on the Constitution (which reported in 1973) and a myriad of proposals for executive or legislative devolution to Wales.¹⁹

3.1

“Administrative devolution”

The phrase “administrative devolution” has been used to describe the process by which government administration – rather than legislative control – was transferred from Whitehall to Edinburgh in the late 19th and early 20th century.²⁰ The same was true of Wales, although the process moved more slowly.

A Welsh Department of the Board of Education was set up in 1907, followed by a Welsh Insurance Commission in 1911, and a Welsh Board of Health and Welsh Department in the Ministry of Agriculture in 1919. There was little change in the interwar years, but in 1940 the Welsh Board of Health took over responsibilities for housing, water and other local government services.

By 1945 there were 15 government departments with offices in Wales, but no territorial department, as there was in Scotland (the Scottish Office), merely a responsible minister at the Home Office. In 1949, the Council for Wales and

¹⁸ Kenneth O. Morgan, *Rebirth of a Nation: A History of Modern Wales 1880-1980*, Oxford: Oxford University Press, 1987.

¹⁹ Cmnd 5460, *Royal Commission on the Constitution 1969-1973 Vol 1 Report*, London: HMSO, 1973.

²⁰ James Mitchell, *Governing Scotland: The Invention of Administrative Devolution*, London: Palgrave Macmillan, 2003.

Monmouthshire was appointed with the task of ensuring that the Government were "adequately informed of the impact of government activities on the general life of the people of Wales". It published a series of memoranda on Welsh issues until 1966.²¹

3.2 The Welsh Office

In October 1964, shortly after the Labour Party was returned to office at that year's general election, the post of Secretary of State for Wales was created and a related department, the Welsh Office, established the following year with a presence in Whitehall and Cardiff. The executive functions of the new Secretary of State largely comprised town planning, housing, water and sewerage, local government, roads and aspects of economic planning.

In addition, the Welsh Secretary was authorised to exercise "oversight" within Wales of the execution of national policy by several UK Ministries, including education and health. Gradually, the Welsh Office accumulated greater responsibilities (as had the Scottish Office since 1885). By 1973, it had assumed direct responsibility for the National Health Service in Wales, forestry and agriculture (jointly with the Ministry of Agriculture) ancient monuments, tourism, childcare and primary and secondary education in Wales, and for financing the National Museum and the National Library of Wales.

Further developments occurred in the late 1970s, when the Welsh Office took over responsibility for the Urban Programme, non-university institutions of advanced and further education, the Manpower Service Commission and public libraries. In 1991, responsibility for Training and Enterprise Councils (TECs) passed from the Department of Employment to the Welsh Office, as did control of the Welsh Arts Council in 1993.²²

3.3 1979 devolution referendum

In 1974, the Labour Government published proposals for a directly elected assembly in Wales with executive but not legislative powers. Backbench pressure forced the government to concede a referendum, which under later amendments required 40 per cent of the electorate (not just of those voting) to vote "yes" for the relevant legislation to take effect.

This proposed a novel form of devolution: executive functions devolved to a Welsh Assembly of 72 members, operating through a committee system and

²¹ Alan Butt-Phillip, *The Welsh Question*, Cardiff: University of Wales Press, 1975.

²² Russell Deacon, *The Governance of Wales: The Welsh Office and the Policy Process 1964-99*, Cardiff: Welsh Academic Press, 2002.

led by a "chief executive".²³ The referendum took place on 1 March 1979, St David's Day, but only 20.3 per cent of the electorate in Wales voted affirmatively, and so the Wales Act 1978 was repealed by the successive Conservative administration.²⁴

Debates about devolving power from Westminster to Wales continued throughout the 1980s and into the 1990s, particularly during periods when the position of Welsh Secretary was held neither by someone from Wales nor representing a Welsh constituency. The political disparity between Wales, which generally elected a majority of Labour MPs, and the UK, which for a long period had a Conservative majority, also produced arguments (as in Scotland) regarding a "democratic deficit".

3.4 1997 devolution referendum

In opposition, the Labour Party had produced proposals for a Welsh Assembly – again with executive rather than legislative powers – in two documents, *Shaping the Vision* (1995) and *Preparing for a New Wales* (1996).²⁵ In June 1996, the party also committed itself to holding a pre-legislative referendum. After the 1997 general election, the Referendums (Scotland and Wales) Bill was introduced to the House of Commons on 15 May 1997.²⁶

Following its speedy passage, the white paper *A Voice for Wales* was published on 22 July 1997,²⁷ setting out proposals for an "Assembly for Wales" with 60 members elected under the Additional Member System. A referendum was held on 18 September 1997 – a week after a separate vote in Scotland – and the electorate asked to indicate whether:

1. I agree that there should be a Welsh Assembly; or
2. I do not agree that there should be a Welsh Assembly

The result was a narrow "yes" vote, 50.3 per cent or 559,419 votes, a majority of just 6,721. "Good morning," responded Ron Davies, the Secretary of State for Wales, "and it is a very good morning in Wales."²⁸

²³ House of Commons Library Research Paper 97/60, [Wales and devolution](#), pp5-7.

²⁴ David Foulkes et al, *The Welsh Veto: The Wales Act 1978 and the referendum*, Cardiff: University of Wales Press, 1983.

²⁵ Several commentators believed this form of devolution, weaker than that proposed for Scotland, was the result of divisions among Welsh Labour MPs (see Martin Shipton, *Poor Man's Parliament*, 2011, Bridgend: Seren, p8).

²⁶ House of Commons Library Research Paper 97/61, [The Referendums \(Scotland and Wales\) Bill](#).

²⁷ *A Voice for Wales: The Government's Proposals for a Welsh Assembly*, Cardiff: HMSO, 1997.

²⁸ Fred Till, [20 years that changes Wales: reflections on 'Wales said Yes'](#), Institute of Welsh Affairs website, 26 September 2017.

4 Government of Wales Act 1998

A Voice for Wales had described how the "Assembly for Wales" would take on the executive functions hitherto exercised by the Secretary of State for Wales, led by an executive committee comprising the chairs of several subject committees.

4.1 Government of Wales Bill 1997-98

On 26 November 1997, the Government of Wales Bill had its first reading in the House of Commons. This reproduced the broad policy objectives of the white paper in greater legislative detail, but now provided for a "First Secretary" to lead the executive committee, while adopting the term "National Assembly" instead of "Assembly for Wales".

As a single "corporate body", the Assembly would not have a separate executive and legislature, instead making delegated or secondary legislation, such as orders and regulations, in devolved areas. Primary legislation remained the responsibility of Westminster in both devolved and reserved areas. This meant that in some cases, the Assembly would have considerable autonomy, while in others it would have limited scope for specifically Welsh initiatives.

Electors in Wales were to have two votes: one for a constituency Assembly Member (AM) and one for a registered party or an independent candidate in five electoral regions which mirrored Wales' five European Parliament constituencies. There were to be 40 constituency AMs elected under "first past the post" (as at Westminster), and 20 "list" AMs elected using the d'Hondt method of proportional representation (as in Scotland).

The Assembly, meanwhile, was to be funded via a "block grant", just as the Welsh Office had been since the late 1970s. The Bill's Explanatory and Financial Memorandum noted that the Barnett formula would continue to form the basis for the distribution of that block grant.²⁹

Importantly, Clause 34 of the Government of Wales Bill empowered the Assembly to consider "any matter affecting Wales", while also providing a

²⁹ See House of Commons Library Briefing Paper CBP7386, [The Barnett formula](#).

mechanism for the future transfer of powers, a means by which the “process” of devolution (as envisaged by Ron Davies) could continue.³⁰

The Government of Wales Bill received Royal Assent on 31 July 1998 and, on 1 July 1999, the Welsh Office ceased to exist, instead becoming the “Wales Office”.

4.2 First elections to the National Assembly

The first elections to the then National Assembly for Wales were held on 6 May 1999, at which there was a turnout of 46.3 per cent. Although Welsh Labour emerged as the largest party with 28 (out of 60) AMs, it did not gain enough seats to govern outright and instead formed a minority administration headed by Alun Michael as First Secretary.³¹

The first Assembly election was also notable given the performance of Plaid Cymru, which won its highest-ever share of the vote in a Wales-wide contest, gaining 17 AMs. The Welsh Conservatives, meanwhile, won 9 AMs and the Welsh Liberal Democrats 6.³²

4.3 Criticisms of the Welsh devolution settlement

In the early years of devolution in Wales, the National Assembly was subject to criticism regarding its structure, powers and funding:

- while most executive functions were delegated to ministers, the Assembly’s subject committees also played a role, blurring the lines between scrutiny and consensual policy development. As Rhodri Morgan later reflected in his memoirs: “With each Minister being a Member of the Committee that scrutinised his or her work, it was hard for the public to see a clear chain of command and responsibility for decisions.”³³
- the Assembly was dependent for all its primary laws on the allocation of legislative time at Westminster, yet it had little control of that process. Writing in 2003, Professor Robert Hazell from the Constitution Unit concluded that Wales got “short shrift under present arrangements”,³⁴ with few of its requests for primary legislation progressing very far.

³⁰ House of Commons Library Research Paper 97/129, The Government of Wales Bill: Devolution and the National Assembly.

³¹ Ron Davies had resigned as Secretary of State for Wales on 27 October, and as Labour’s candidate for First Secretary on 29 October 1998.

³² House of Commons Library Research Paper 99/51, [Welsh Assembly Elections: 6 May 1999](#).

³³ Rhodri Morgan, *Rhodri: A Political Life in Wales and Westminster*, Cardiff: University of Wales Press, 2017, p170.

³⁴ Martin Shipton, p110.

- unlike in Scotland and Northern Ireland, many believed that the population- (rather than needs) based Barnett formula disadvantaged Wales in terms of funding. Writing in 1998, Ron Davies had predicted that “the case will shortly be unanswerable for a comprehensive and thorough review of the funding mechanism”.³⁵

³⁵ Ron Davies, p10.

5

Richard Commission

Summary

A debate over whether the then National Assembly for Wales ought to have primary (rather than secondary) law-making powers began within months of its first meeting, while in practice the Assembly gradually moved towards a separation of its legislative and executive functions within the constraints of the Government of Wales Act 1998.

Paul Murphy, Secretary of State for Wales after July 1999, said he was “convinced most people in Wales don’t want the kind of Parliament they have in Scotland”, while shortly after becoming First Minister in early 2000, Rhodri Morgan spoke of “organic devolution” which, if allowed to occur, would see the Assembly “grow in status and authority with the full-hearted consent and support of the people of Wales”.³⁶

As part of the coalition deal between Labour and the Liberal Democrats signed in October 2000, the Welsh Assembly Government agreed to appoint a body to examine further devolution to Wales. The term “Welsh Assembly Government” started to be used to identify the differences between the executive and the legislature (the “National Assembly for Wales”), even though formal separation did not take place until much later.

On 18 April 2002, First Minister Rhodri Morgan established the Commission on the Powers and Electoral Arrangements of the National Assembly for Wales, to be chaired by Lord Richard, a former Leader of the House of Lords. The Richard Commission, as it became known, began work in September that year.

The [Richard Commission’s recommendations](#), published on 31 March 2004, fell into three main areas: legislative powers, Assembly structure and electoral arrangements.

³⁶ Martin Shipton, pp30 & 46.

5.1 Primary legislative powers

The Commission noted there had been considerable changes to the Assembly's powers since 1999, but on an ad hoc basis rather than as part of an agreed policy. It therefore recommended:

- a Wales Bill to amend the Government of Wales Act 1998 and confer primary law-making powers on the Assembly;
- moving to a "reserved powers" model in which Westminster's remit was made clear, with the assumption that everything else remained devolved to Cardiff.

5.2 Structure of the Assembly

Assuming the devolution of primary law-making powers, the Commission recommended that the structure of the National Assembly ought to change from a unitary body to a separate executive and legislature. The Commission recommended:

- that the Welsh Assembly Government be responsible for executive decisions and answerable to the legislature (the Assembly);
- a consequent increase of one third – from 60 to 80 – in the number of Assembly Members.

5.3 Electoral arrangements for the Assembly

The Commission observed that increasing the number of Assembly Members would carry implications, mainly for the Assembly's Additional Member electoral system. The Commission therefore felt the status quo created two types of AM and therefore potential disagreements about the activities of the regional Members. It concluded an increase in regional Members would exacerbate this problem and so recommended moving to a Single Transferable Vote (STV) electoral system.³⁷

³⁷ House of Commons Library Standard Note SN/PC/3018, [Report of the Commission on the Powers and the Electoral Arrangements of the National Assembly for Wales](#).

5.4

Responses to the Richard Commission

Lord Richard's recommendations were broadly welcomed by Assembly Members (AMs) and, on 6 October 2004, they voted formally to separate the executive and legislature, as well as endorsing the Commission's recommendation for primary law-making powers.

The UK Government articulated its response in the [Better Governance for Wales](#) white paper published on 15 June 2005. Although it did not accept all of Lord Richard's recommendations – chiefly a larger Assembly and an STV electoral system – it proposed to:

- give legislative effect to a formal separation between the National Assembly and the Welsh Assembly Government;
- grant the Assembly, in the longer-term, primary law-making powers, although as that would constitute “a fundamental change to the Welsh [devolution] settlement”, this would require the support of the Welsh electorate through a referendum;³⁸
- grant the Assembly, “gradually over a number of years”, enhanced legislative powers in defined policy areas, via Orders in Council – subject to Westminster consent – enabling it to modify legislation within its existing executive functions.

The last of those recommendations attracted strong criticism. Professor Laura McAllister and Sir Michael Wheeler-Booth, who had served on the Richard Commission, said it was “designed to appease various factions of the Labour Party rather than getting a long-lasting and workable system”, while former Secretary of State for Wales Ron Davies said it was “perfectly clear that power over Welsh legislation will still be with Westminster. MPs and Lords will be able to veto proposals coming from the Assembly, as will the Secretary of State. That's not devolution, it's Westminster control.”³⁹

³⁸ Cmnd 6582, [Better Governance for Wales](#), Cardiff: HMSO, 15 June 2005, pp5-10.

³⁹ Martin Shipton, pp161 & 199.

6 Government of Wales Act 2006

The Government of Wales Bill 2005-06 fulfilled the Government's commitment to move the Welsh devolution process forward and was introduced to the House of Commons on 8 December 2005,⁴⁰ receiving its second reading on 9 January 2006. It had three key elements:

- formal separation between the legislature (National Assembly for Wales) and executive (Welsh Assembly Government), meaning the powers and functions of the Assembly, including the power to make subordinate legislation, were transferred to Welsh Ministers, who would henceforth be accountable to the Assembly;
- part 3 of the Bill granted the ability to pass "Assembly Measures" (primary laws) in its 20 defined areas of responsibility on a case-by-case basis through "Legislative Competence Orders" (LCOs), which required the consent of both Houses of Parliament and the Secretary of State for Wales;
- part 4 granted the Assembly primary law-making powers, subject to a referendum.

The Bill, which as enacted repealed most of the Government of Wales Act 1998,⁴¹ passed through the Commons without significant amendment. The most notable change made to the Bill in the House of Lords was the removal of the proposed ban on "dual" candidacy for elections to the then National Assembly (although it remained in place until 2014). The Act's provisions took effect on 4 May 2007, following elections to the National Assembly.⁴²

6.1 Criticisms of the Government of Wales Act 2006

- The new system of Legislative Consent Orders (LCOs) was soon criticised as, in the words of Dr Barry Morgan, the Archbishop of Wales, "often confusing, arcane and cumbersome".⁴³ In the first two years of the new system, only four uncontroversial LCOs were passed, with more

⁴⁰ House of Commons Library Research Paper 05/90, [The Government of Wales Bill \(Bill 100 2005-06\)](#).

⁴¹ Some provisions of the Government of Wales Act 1998 were to [remain in force for technical reasons](#).

⁴² House of Commons Library Briefing Paper SN-4098, [Government of Wales Bill 2005: a note on the Bill's progress](#).

⁴³ Martin Shipton, p221.

contentious measures delayed or, in the case of an attempt by the Assembly to prohibit the "right to buy" (council houses), abandoned.

This prompted a broader debate about the National Assembly gaining primary law-making powers. Many senior figures from all parties in the Assembly now supported the move, although David T. C. Davies, a Conservative MP (and former AM) warned that full law-making powers would "be a huge step along the rocky road to full independence for Wales".⁴⁴

⁴⁴ Martin Shipton, p231. In 2010, David T. C. Davies became chairman of the Welsh Affairs Committee and, in 2021, Secretary of State for Wales.

7

Holtham Commission

Part of the "One Wales" coalition agreement between Labour and Plaid Cymru following the 2007 elections was establishing a commission to review the National Assembly's funding and finance.⁴⁵ Gerald Holtham was appointed chair, and the Independent Commission on Funding and Finance for Wales began work in autumn 2008. A similar body, the [Calman Commission](#), had been established the same year to look at the funding of the Scottish Parliament.

7.1

First report

Holtham published its [first report](#) on 7 July 2009, which included criticism of the Barnett formula as lacking "objective justification" and having survived for 30 years "solely for reasons of political and administrative convenience". It recommended replacing it with a needs-based formula.

The report also discussed the convergence in Wales' funding caused by the so-called "Barnett squeeze". And while accepting that the implementation of a replacement would take time, Holtham recommended, as an interim measure, that a "funding floor" should be put in place to prevent further relative reduction of the Welsh block grant.

7.2

Second report

The Holtham Commission published its [second and final report](#) on 5 July 2010, reaffirming its initial proposals for a needs-based funding formula and calling for the devolution of tax-varying powers akin to those set out in the Government of Scotland Act 1998, the ability to vary income tax – up or down – by 3p in the pound. The report also recommended devolution of other taxes, as well as granting the Welsh Assembly Government the power to create new taxes with the UK Government's consent.

⁴⁵ House of Commons Briefing Paper SN04407, [The Welsh Assembly elections May 2007: the formation of the Welsh Assembly Government and recent developments in the Assembly](#).

7.3

Responses to Holtham

The main political parties in the then National Assembly supported the Holtham Commission's report and on 12 October 2010 a Welsh Assembly Government resolution supporting its findings was endorsed unanimously.⁴⁶ The House of Commons' [Welsh Affairs Committee](#) also supported replacing the Barnett formula, as had a 2009 [House of Lords committee](#) report. The Holtham Commission's fiscal recommendations would later be taken up – and ultimately extended – by the Silk Commission (see Sections 8 and 10 below).

⁴⁶ House of Commons Library Briefing Paper SN6028, [Holtham Commission](#).

8 2011 referendum on law-making powers

Both the UK Government's response to the Richard Commission and the One Wales coalition agreement had included commitments to a post-legislative referendum on primary law-making powers for the National Assembly, as well as the establishment of the "All Wales Convention" (AWC), chaired by former diplomat Sir Emyr Jones Parry, to gauge the public appetite for a vote.

The [AWC reported](#) in November 2011, concluding that majority of voters in Wales did not understand the Assembly's current law-making arrangements and that a move towards primary law-making powers via a referendum was desirable.

On 9 February 2010, the National Assembly achieved a "super-majority" (as required under the Government of Wales Act 2006) in favour of a referendum, and the UK Government introduced legislation enabling it to be held on 3 March 2011, two months ahead of the fourth Assembly elections.⁴⁷

In the campaign that followed, all political parties in the Assembly supported a move towards primary law-making powers, although the UK Government remained neutral.

8.1 "Yes for Wales"

In a referendum statement, the "Yes for Wales" campaign argued that an affirmative vote would make the then National Assembly "more efficient, more cost effective and more accountable to the people of Wales". It continued:

At the moment, Assembly Members have to ask permission from London before they can pass laws in areas that are already the responsibility of the Assembly. This can take a long time and holds back action in vitally important areas. There have been long delays in providing more affordable housing, promoting recycling and improving mental health treatment – all because the Assembly doesn't have all the tools it needs to do the job. A Yes vote in the referendum will speed up the process.

⁴⁷ House of Commons Briefing Paper SN05759, [Referendum in Wales: draft Orders](#).

8.2 True Wales

A statement from "True Wales", the "no" campaign, argued that more powers would "make things even worse because the Assembly will be able to pass laws without adequate scrutiny". It argued that:

The involvement of the elected Welsh MPs is vital for the health of our democracy. Good laws require scrutiny and that takes time. Many of the laws proposed by the AMs have been significantly improved by the MPs. The Assembly currently has all the tools it needs to do the tasks the AMs were elected to undertake. More power isn't necessary but the involvement of the MPs is essential.

8.3 Referendum result

On 3 March 2011, voters in Wales were asked a question [recommended by the Electoral Commission](#): "Do you want the Assembly now to be able to make laws on all matters in the 20 subject areas it has powers for?"

In response, a total of 517,132 people (63.49 per cent) answered "yes", while 297,380 (36.51 per cent) said "no". Turnout was 35.6 per cent.⁴⁸

8.4 Assuming new powers

Following the affirmative referendum result, the Assembly assumed its new powers on 5 May 2011, enabling it to pass primary legislation (without recourse to Westminster) in all 20 areas already devolved to Wales. On 28 November 2011, the Welsh Government introduced its first piece of primary legislation, the Local Government (Byelaws) Wales Bill.⁴⁹

On 15 December 2011, Queen Elizabeth II approved and presented the "Welsh Seal" to the First Minister at a meeting of the Privy Council.⁵⁰

⁴⁸ House of Commons Library Briefing Paper SN5897, [Referendum in Wales](#).

⁴⁹ On 30 July 2012, the UK Attorney General referred this Bill to the United Kingdom Supreme Court, the first time the competence of a devolved Bill had been questioned. On 21 November 2012, the Court handed down a unanimous judgement that the Bill was within the competence of the then National Assembly for Wales [[2012\] UKSC 53](#). See **Box 2** for an explanation of the Supreme Court and devolution in Wales.

⁵⁰ Russell Deacon, p118.

Box 1: Notable measures passed by the National Assembly for Wales

Even before the National Assembly gained primary law-making powers in 2011, it had often made creative use of its more limited legislative ability.

Notable examples include:

1. **Children's Commissioner:** The Assembly appointed the world's first Children's Commissioner in 2001.
2. **Prescription charges:** The price of prescriptions was frozen at £6 in 2001, reduced to £5 in 2004, £4 in 2005, £3 in 2006 and abolished completely in 2007.
3. **Museums and galleries:** Admission to eight National Museums and Galleries of Wales sites was made free in 2001, ahead of a similar move in England.
4. **Nursing care:** In 2001, the Assembly voted to pay more than 2,000 elderly people resident in nursing homes £100 a week towards the cost of their care.
5. **Local government:** The Assembly used its secondary powers to delay local elections in 2003 for a year so they would not clash with Assembly elections.
6. **Smoking in public places:** In 2007 Wales became the first part of the UK to restrict smoking in enclosed public places.
7. **Bus travel:** The Assembly voted to give pensioners and disabled people in Wales free bus travel.
8. **University tuition fees:** In 2010 the Welsh Government pledged to meet the cost of additional charges for students from Wales attending any university in the UK. It had also subsidised fees for students in Wales before 2010.

9

Silk Commission I: Wales' financial powers

The Commission on Devolution in Wales was established by the Conservative-Liberal Democrat coalition government on 11 October 2011 to review – once again – the devolution settlement in Wales. What became known as the “Silk Commission” (after its chair, Paul Silk, a former clerk in the House of Commons and clerk of the then National Assembly) met for the first time in Cardiff on 4 November 2011, comprising four members of the National Assembly and several leading legal and political experts. Its remit was separated into two strands, Wales’ financial powers (Part I) and Wales’ legislative powers (Part II).⁵¹

9.1

Silk Part I

The Commission’s terms of reference included making recommendations which improved financial accountability, were consistent with the UK’s fiscal objectives and commanded a wide degree of support.

Silk Part I, [Empowerment and Responsibility: Financial Powers to strengthen Wales](#), was published on 19 November 2012 and made 33 recommendations, including:

- devolution of landfill tax, stamp duty, land tax, the aggregates levy and business rates (in full);
- Air Passenger Duty should be devolved for long-haul flights initially, with full devolution possible in future;
- responsibility for income tax to be shared between the Assembly and Westminster, with the Welsh Government able to vary income tax within UK rates (with consequent reductions to the block grant);
- transfer of income tax powers should be conditional upon resolving issues of fair funding (i.e. the Barnett formula), and subject to a referendum;
- borrowing powers to support increased investment in infrastructure and to manage greater variability in tax revenues.

⁵¹ House of Commons Library Briefing Paper SN06108, [Devolution in Wales: The Silk Commission](#).

Paul Silk stated:

Our proposals would provide the Welsh Government with an important set of fiscal levers and would enable political parties in Wales to offer people real fiscal choices. [...] What we are recommending is significant and historic. It will give Wales its own tax and borrowing system for the first time.⁵²

Box 2: The UK Supreme Court and devolution in Wales

The [Supreme Court of the United Kingdom](#) (UKSC) is the final court of appeal for civil cases, which combined with the Court's devolution jurisdiction, gives it a significant role in shaping the development of the law on devolution.

Since the establishment of the UKSC in 2009, there have been a number of significant judgments on devolution, in particular as a result of references made to the Court from what is now the Senedd.

The Government of Wales Act 2006 enables the Supreme Court to rule that primary legislation made by the Senedd is outside of competence. Referrals can only be made in the four-week period following a Bill being passed by the Parliament, and only by the Attorney General (for England and Wales) or the Counsel General for Wales (see **Box 3**).

The SCUK must decide, when it is contested, whether a particular provision is within the legal powers granted to the devolved legislature by the UK Parliament in the corresponding devolution statute.

There are three routes. The first is through a reference of a Bill that is before a devolved legislature by one of the law officers, for example the Counsel General.

The second is through a statutory reference or appeal of a "devolution issue" to the UKSC. The original devolution statutes provide for a special procedure for "devolution issues" raised in litigation, including the legal validity of an Act made by the devolved legislatures, to be referred or appealed from certain courts to the Supreme Court.

The third is through the normal judicial process, with cases arriving at the UKSC on appeal from lower courts.

As of April 2018, devolution in Wales operates on a "reserved" rather than "conferred" powers basis, although a report from the Senedd's [Constitutional and Legislative Affairs Committee](#) expressed concern that aspects of the Wales Act 2017 would not diminish the likelihood of continuing referrals to the UKSC.⁵³

⁵² House of Commons Library Briefing Paper SN6542, [Political developments in Wales to December 2012](#).

⁵³ Constitutional and Legislative Affairs Committee, [Report on the UK Government's Wales Bill](#), October 2016.

10

Wales Act 2014

Following the publication of the Commission on Devolution in Wales' Part I report on financial powers, the UK Government introduced the Wales Bill 2013-14 to the House of Commons on 20 March 2014.⁵⁴ Its provisions, which transferred further powers to the then National Assembly, covered the following areas:

- devolution of stamp duty, business rates and landfill tax to the Assembly, as well as the power to propose completely new taxes subject to approval from both Houses of Parliament and the Secretary of State for Wales;
- a referendum on the devolution of income tax. If affirmative, then the Assembly would be able to set a Welsh rate of income tax, 10p within each UK band (but without the lockstep set out in the Scotland Act 2012);
- extending Assembly terms from four to five years to avoid clashes with UK general elections following the Fixed-term Parliaments Act 2011;
- removing the prohibition on candidates in Assembly elections from contesting both constituency seats and places on the regional list, but prohibiting a "dual mandate", whereby AMs also served as MPs;
- formally changing the Welsh Assembly Government's name to the "Welsh Government" (a term in informal use since 2011);
- allowing Welsh Ministers to limit the amount of debt individual local housing authorities in Wales might hold;
- requiring the Law Commission to provide advice and information to Welsh Ministers on law reform matters.

The [Wales Act 2014](#) received Royal Assent on 17 December 2014.

⁵⁴ House of Commons Briefing Paper RP14-19, [Wales Bill 2013-14](#).

11

Silk Commission II: Wales' legislative powers

The Commission on Devolution in Wales published Part II of its report, [Empowerment and Responsibility: Legislative powers to strengthen Wales](#), on 3 March 2014, this time with proposed changes to the then National Assembly's legislative powers. Silk II outlined 61 recommendations, including:

- an increase in the number of Assembly Members to deal with an “overstretched” legislature (it echoed the 2004 Richard Commission in suggesting “at least” 80 Members);
- increasing the National Assembly's power to decide on energy projects in Wales, raising the limit to 350 megawatts;
- regionalisation of governance of the BBC Trust in Wales and responsibility for financing the Welsh language television channel S4C;
- devolution of responsibility for the water industry in Wales;
- devolution of regulatory powers over transport, including ports, railways, buses and taxis, and a greater say in determining the rail franchise in Wales;
- devolution of responsibility for drink-driving and speed limits;
- devolution of policing to Wales, as in Scotland and Northern Ireland;
- devolution of youth justice and a review – in ten years' time – of whether all criminal justice responsibilities ought to come under Assembly control;
- moving to a Scottish style “reserved powers” model of devolution, under which policy areas reserved to the UK were clearly specified, with everything else considered devolved.⁵⁵

⁵⁵ Commission on Devolution in Wales, [Empowerment and responsibility: Legislative powers to strengthen Wales](#), March 2014.

11.1

Response to Silk Part II

Concern was expressed by both the Welsh Government and UK politicians over Silk II's proposal to increase the size of the National Assembly. The UK Government had argued against "radical change" to the devolution settlement in its own submission to the commission and, in a statement, the then Secretary of State for Wales, David Jones, said:

We will consider implementing some of the changes the Commission has recommended during this Parliament. But there is insufficient time remaining in this Parliament to implement any changes that require primary legislation. These will therefore be a matter for the next Government and Parliament, and for political parties to set out their proposals and intentions to the electorate ahead of the General Election in 2015.⁵⁶

11.2

St David's Day Agreement

Following the publication of Silk Part II, the main political parties in Wales met with the then Secretary of State for Wales, Stephen Crabb, to discuss the future of the Welsh devolution settlement. A framework St David's Day Agreement was published on 27 February 2015 as a command paper entitled [Powers for a purpose: Towards a lasting devolution settlement for Wales](#).

This incorporated the majority of the 61 recommendations in Silk II, although there was not a consensus over aspects of policing and criminal justice. The Secretary of State set out the main recommendations, including:

- energy projects up to 350MW to be decided by Welsh Ministers;
- power to lower the voting age to 16 for Assembly elections;
- devolution of all powers relating to Assembly and local government elections;
- a review of Air Passenger Duty with a view to devolving control.

As part of the St David's Day Agreement, the UK Government also agreed that:

- the National Assembly and Welsh Government should formally be recognised in statute as permanent;

⁵⁶ Wales Office News Release, [Government welcomes report on future of devolution in Wales](#), 3 March 2014.

- on future votes of constitutional importance – i.e. the size of the Assembly or its electoral system – a “super-majority” of two-thirds in the Assembly would be required;
- the UK Government would examine which recommendations of the Smith Commission (on Scottish devolution) were relevant to Wales.

Box 3: Counsel General for Wales

Between 1998 and 2003, Winston Roddick QC fulfilled the role of chief legal adviser to the then National Assembly for Wales. This was a non-statutory and non-governmental civil service role. Later, Roddick suggested calling the position “Counsel General” for Wales.

Following the Government of Wales Act 2006, the statutory position of Counsel General was created to reflect the formal division between the National Assembly and Welsh Assembly Government. As well as giving advice, the Counsel General can, if necessary, refer Assembly Acts to the [Supreme Court of the United Kingdom](#) (see **Box 2**).

12

Wales Act 2017

Following the UK general election in May 2015, the Wales Bill 2016-17 was published with a view to implementing the measures agreed in the St David's Day Agreement by amending the Government of Wales Act 2006 and Wales Act 2014.⁵⁷ The Bill's key provisions included:

- moving from a "conferred" to a "reserved" model of devolution in Wales and recognising the "permanence" of the then National Assembly;
- giving Welsh Ministers new executive powers, for example over onshore petroleum licensing, speed limits, pedestrian crossings and traffic signs;
- creating a President of Welsh tribunals, although England and Wales would continue to share a single jurisdiction;
- the removal of the requirement for a referendum on the devolution of income tax and ending the entitlement of the Secretary of State for Wales "to participate in proceedings of the Assembly but not to vote".⁵⁸
- The [Wales Act 2017](#) received Royal Assent on 31 January 2017 and its provisions came into effect in two stages, some at the end of March 2017 and the rest on 1 April 2018.

12.1

Criticisms of the Wales Act 2017

In October 2016, the then National Assembly's Constitutional and Legislative Affairs Committee published a report on the Wales Bill, concluding that it was not "a lasting or durable settlement":

We do not believe that the Bill's proposed model of legislative competence is clear, coherent and workable, or will provide a durable framework within which the National Assembly can legislate. As a consequence, we consider legislators in the UK Parliament and in the National Assembly will need to return to address these matters sooner rather than later.⁵⁹

⁵⁷ House of Commons Library Briefing Paper CBP7616, [Wales Bill 2016-17](#).

⁵⁸ Secretary of State for Wales Alun Cairns delivered the last [Queen's Speech address](#) to the then National Assembly of Wales on 6 July 2016.

⁵⁹ Constitutional and Legislative Affairs Committee, [Report on the UK Government's Wales Bill](#), October 2016, p57.

13 Constitutional debates

Since the Government of Wales Act 1998, the ongoing “process” of devolution in Wales has taken place within the context of broader constitutional debates.

13.1 Brexit

When the Brexit transitional period ended on 31 December 2020, powers previously exercised at European Union level were “repatriated” to the UK. Some became the sole preserve of the UK Government and Parliament; others transferred to Scotland, Wales and Northern Ireland. Talks are ongoing between the UK Government and the devolved administrations regarding [common frameworks](#), areas in which they will agree to co-ordinate certain policy areas.

An [outline framework](#) was published in July 2019 and the most recent [quarterly report](#) on the common frameworks process (required under the European Union (Withdrawal) Act 2018) was presented to Parliament in May 2020. A delivery plan enables all frameworks to be agreed and the majority implemented by the end of 2020.

The Conservative Party’s 2019 manifesto also pledged to replace EU Structural Funds with a [UK Shared Prosperity Fund](#), to “bind together the whole of the United Kingdom, tackling inequality and deprivation in each of our four nations”.

13.2 The future of Wales

Plaid Cymru’s manifesto for the 2017 UK general election stated: “It remains our ambition for Wales to become an independent nation, standing on its own two feet.”⁶⁰ At that point, polling suggested support for independence had been lower than 10 per cent since 2011.⁶¹

In November 2019, Plaid Cymru established a commission to “[look at the detail of how an independent Wales could work](#)”. Polling during 2019 suggested support for Welsh independence had increased. A [YouGov survey commissioned by Plaid](#) found that 24% would vote Yes in an independence

⁶⁰ Plaid Cymru, [Action Plan 2017](#), May 2017.

⁶¹ BBC News online, [Poll for BBC Wales on Brexit attitudes and voting](#), 1 March 2018.

referendum, rising to 33% if it meant Wales could remain part of the EU. Plaid believes "[Wales should become an independent member of the European Union](#)" by 2030.

In October 2019, the Welsh Government published [Reforming our Union: Shared Governance in the UK](#), which considered how the UK might face "the potential challenges resulting from Brexit". It argued that as a "voluntary association," the UK "must be open to any of its parts democratically to choose to withdraw from the Union."⁶²

In the run up to the 2021 Senedd elections, some polling put the percentage of people who would vote "yes" in a Welsh independence referendum at between 30 and 35%.⁶³

In July 2021 the Welsh Government [set out plans](#) for an [Independent Commission on the Constitutional Future of Wales](#). The then First Minister, Mark Drakeford, said the Commission's terms of reference allowed for independence to be considered.⁶⁴ The Commission published its interim report in December 2022, which set out three "viable" options for Wales: entrenched devolution, federal structures or independence. The final report was published in January 2024. This set out 10 recommendations for "strengthening Welsh democracy" and "protecting devolution".⁶⁵

13.3

Federalism

The idea of Wales as one part of a federal UK was first advocated by the Conservative Senedd Member David Melding in his book, *Will Britain Survive Beyond 2020?* (2009). A subsequent electronic publication, [The Reformed Union: The UK as a Federation](#) (2013), considered how to translate that idea into a practical reality.

Melding's arguments appeared to have influenced the former First Minister Carwyn Jones, who had long supported a UK-wide "constitutional convention". In 2014 Jones called for "some federal thinking"⁶⁶ and, following the EU referendum in 2016, for "some sort of federation".⁶⁷

Federalism is also supported by the Liberal Democrats in Wales, while in 2013 the then Plaid Cymru AM and former Presiding Officer Dafydd Elis-Thomas

⁶² Welsh Government, [Reforming our Union: Shared Governance in the UK](#), 10 October 2019.

⁶³ Institute for Government, [Election 2021: Welsh independence](#), 22 April 2021.

⁶⁴ Mark Drakeford, [Plenary 19 October 2021](#).

⁶⁵ [Independent Commission on the Constitutional Future of Wales: final report](#), January 2024.

⁶⁶ Carwyn Jones, [Our future union – a perspective from Wales](#), speech to Institute for Government Conference, 15 October 2014.

⁶⁷ BBC News online, [Brexit could lead to a federal UK, Carwyn Jones says](#), 30 June 2016.

stated: "I'm an out and out UK federalist [...] There was never a project for Welsh independence, anyway."⁶⁸

13.4

Abolition

Abolishing the Senedd is a minority view in Wales. At the 2016 Assembly elections, the [Abolish the Welsh Assembly Party](#) secured 4.4 per cent of the regional list vote, while in June 2018 the UKIP AM Gareth Bennett suggested a referendum on repealing the existing devolution settlement.⁶⁹

At the Senedd elections 2021, Abolish the Welsh Assembly fielded candidates for the regional list, and for the first time, for constituency seats. The party failed to win any seats in the Senedd and saw a decrease in its vote share on the regional list.⁷⁰

13.5

Devolution of further powers

Most debate concerns further devolution, the most popular constitutional option with voters in Wales since 2010, at around 44 per cent.⁷¹ This includes the following areas:

Size of the Welsh Parliament

In November 2017, the [Expert Panel on Assembly Electoral Reform](#) chaired by Professor Laura McAllister recommended that the then National Assembly "should be increased to at least 80 Members, and preferably closer to 90 Members, to ensure that the parliament elected in 2021 has sufficient capacity to fulfil its policy, legislative and financial scrutiny responsibilities".⁷²

In September 2019 the [Committee on Senedd Electoral Reform](#) was established to examine the recommendations of the Expert Panel. A year later it published a [report](#) recommending that the Senedd should be increased to 80-90 members. However, there was not cross-party support for this move with the Welsh Conservatives not sitting on the Committee.

Following the 2021 Senedd elections, a new [Special Purpose Committee on Senedd Reform](#) was created to carry on the work of the Committee on Senedd Electoral Reform. The four political parties within the Senedd were

⁶⁸ BBC News online, [Dafyd Ellis-Thomas calls for liberation of England in new federal arrangement for UK](#), 12 July 2013.

⁶⁹ BBC News online, [Gareth Bennet to run for UKIP assembly group leadership](#), 26 June 2018.

⁷⁰ Senedd Research, [Senedd Election 2021](#), July 2021.

⁷¹ BBC News online, [Poll for BBC Wales on Brexit attitudes and voting](#), 1 March 2018.

⁷² National Assembly for Wales, Expert Panel on Assembly Electoral Reform, [A Parliament that works for Wales](#), 12 December 2017.

represented on this Committee; the Conservative MS, Darren Millar, resigned shortly before the Committee report was published.⁷³ The Committee published its report on 30 May 2022 and made a number of recommendations including that the Senedd should have 96 Members. On 10 May 2022 the Welsh Government and Plaid Cymru issued a joint statement setting out their position on Senedd reform (which included that the Senedd should have 96 Members).⁷⁴ Following a debate in the Senedd on the Committee's report, the Committee was dissolved.⁷⁵

In December 2022, the Welsh Government announced that it was taking forward the work on Senedd reform and that an update would be provided by Easter 2023.⁷⁶

Welsh legal jurisdiction

In September 2017, the then First Minister Carwyn Jones established a Commission on Justice in Wales to review the operation of the justice system in Wales, including the prospect of a separate jurisdiction (which had not formed part of the Wales Act 2017). The [Commission on Justice in Wales](#) reported in October 2019 and recommended the devolution of policing and justice to the then National Assembly.

The Commission also recommended that the then Assembly should take a more proactive role in scrutinising the operation of the justice system. In response to this, the then Assembly's Constitutional and Legislative Affairs Committee changed its remit to include justice and was renamed the Legislation, Justice and Constitution (LJC) Committee.⁷⁷

Other powers

The 2019 Liberal Democrat manifesto supported the devolution of policing and justice. It also argued for the transfer of Air Passenger Duty while "substantially" reducing the number of matters reserved to Westminster under the Wales Act 2017. Plaid Cymru's 2019 manifesto also supported devolving justice and Air Passenger Duty, as well as migration policy, welfare powers, broadcasting and corporation tax, and the retention of "[VAT revenues assigned to Wales.](#)" In June 2019, the Commons Welsh Affairs Committee recommended that Air Passenger Duty be devolved to the then National Assembly for Wales.⁷⁸ While this was [welcomed by the Welsh Government, the UK Government rejected the recommendation.](#)

⁷³ Special Purpose Committee on Senedd Reform, [Reforming our Senedd: A stronger voice for the people of Wales](#), May 2022.

⁷⁴ Welsh Government, [A way forward for Senedd Reform](#), May 2022.

⁷⁵ Senedd, [Debate on the Report of the Special Purpose Committee on Senedd Reform](#), 8 June 2022.

⁷⁶ Welsh Government, [Written Statement: Update on Senedd Reform](#), December 2022.

⁷⁷ National Assembly for Wales, [Amending the title and remit of the Constitutional and Legislative Affairs Committee](#), January 2020.

⁷⁸ Welsh Affairs Committee report, [Devolution of Air Passenger Duty to Wales](#), 11 June 2019.

14 Information and further reading

14.1 Online sources of information

Welsh Government: <http://gov.wales>

Senedd Cymru/Welsh Parliament: <https://senedd.wales>

Senedd Research: [Senedd Research: https://research.senedd.wales/](https://research.senedd.wales/)

Office of the Secretary of State for Wales (formerly the Wales Office):
<https://www.gov.uk/government/organisations/office-of-the-secretary-of-state-for-wales>

Institute of Welsh Affairs: <http://www.iwa.wales>

Wales Centre for Public Policy: <https://www.wcpp.org.uk/about/>

Wales Governance Centre: <http://sites.cardiff.ac.uk/wgc/>

The history of Welsh devolution: <https://senedd.wales/en/abthome/role-of-assembly-how-it-works/Pages/history-welsh-devolution.aspx>

Key events in the development of the Senedd: <https://senedd.wales/en/bus-home/research/bus-assembly-publications-monitoring-services/Pages/Key-Events-Home.aspx>

14.2 Further reading

Welsh political history

Russell Deacon, Alison Denton and Robert Southall, *The Government and Politics of Wales*, Edinburgh: Edinburgh University Press, 2018

John Graham Jones, *The History of Wales*, Cardiff: University of Wales Press, 2014

Martin Johnes, *Wales since 1939*, Manchester: Manchester University Press, 2012

Rhys Evans, *Gwynfor Evans: A Portrait of a Patriot*, Talybont: Y Lolfa, 2008

John Davies, *A History of Wales*, London: Penguin, 2007

Senedd Cymru/ Welsh Parliament

Rhodri Morgan, *Rhodri: A Political Life in Wales and Westminster*, Cardiff: University of Wales Press, 2017

Vaughan Roderick, *Pen ar y Bloc*, Talybont: Y Lolfa, 2017

Kenneth O. Morgan, *Revolution to Devolution: Reflections on Welsh Democracy*, Cardiff: University of Wales Press, 2014

Martin Shipton, *Poor Man's Parliament: Ten Years of the Welsh Assembly*, Bridgend: Seren, 2011

Various authors, *Politics in 21st Century Wales (Cardiff Bay Papers)*, Cardiff: Institute of Welsh Affairs, 2008

John Davies, Phil Williams: *The Assembly Years 1999-2003*, Cardiff: Plaid Cymru, 2004

Kevin Morgan and Geoff Mungham, *Redesigning Democracy: The Making of the Welsh Assembly: The Welsh Labour Party and Devolution*, Bridgend: Seren, 2000

Denis Balsom and J. Barry Jones, *The Road to the National Assembly for Wales*, Cardiff: University of Wales Press, 2000

Ron Davies, *Devolution: A Process Not an Event*, Cardiff: Institute of Welsh Affairs, 1999

Political parties in Wales

Alan Convery, *The territorial Conservative Party: devolution and party change in Scotland and Wales*, Manchester: Manchester University Press, 2016

Russell Deacon, *The Welsh Liberals: The History of the Liberal and Liberal Democratic Parties in Wales*, Cardiff: Welsh Academic Press, 2014

Richard Wyn Jones, *Rhoi Cymru'n Gyntaf: Syniadaeth Plaid Cymru (Cyfrol 1)*, Cardiff: University of Wales Press, 2007

Deian R. Hopkin, Duncan Tanner and Chris Williams (eds), *The Labour Party in Wales 1900-2000*, Cardiff: University of Wales Press, 2001

Public policy and constitutional change

Leighton Andrews, *Ministering to Education: a reformer reports*, Cardigan: Parthian, 2014

David Melding, [The Reformed Union: The UK as a Federation](#), Cardiff: Institute of Welsh Affairs, 2013

David Melding, *Will Britain Survive Beyond 2020?*, Cardiff: Institute of Welsh Affairs, 2009

Elections and referendums in Wales

Roger Scully, *The End of British Politics?* London: Biteback, 2018

Adrian Masters, *Nothing Has Changed: The 2017 election diaries from the political editor of ITV Cymru Wales*, Cardigan: Parthian, 2017

Richard Wyn Jones and Roger Scully, *Wales Says Yes: Devolution and the 2011 Welsh Referendum*, Cardiff: University of Wales Press, 2012

Leighton Andrews, *Wales Says Yes: The Inside Story of the Yes for Wales Referendum Campaign*, Bridgend: Seren, 1999

15

Political leaders in Wales

15.1

First Secretaries and First Ministers of Wales

- Alun Michael AM (12 May 1999 – 9 February 2000)⁷⁹
- Rhodri Morgan AM (9 February 2000 – 9 December 2009)
- Carwyn Jones AM (9 December 2009 – 12 December 2018)
- Mark Drakeford MS (12 December 2018 – 20 March 2024)
- Vaughan Gething MS (20 March 2024 –)

15.2

Secretaries of State for Wales

- Ron Davies MP (2 May 1997 – 27 October 1998)
- Alun Michael MP (27 October 1998 – 28 July 1999)
- Paul Murphy MP (28 July 1999 – 24 October 2002; 24 January 2008 – 5 June 2009)
- Peter Hain MP (24 October 2002 – 24 January 2008; 5 June 2009 – 11 May 2010)⁸⁰
- Cheryl Gillan MP (11 May 2010 – 4 September 2012)
- David Jones MP (4 September 2012 – 14 July 2014)⁸¹
- Stephen Crabb MP (14 July 2014 – 19 March 2016)
- Alun Cairns MP (19 March 2016 – 6 November 2019)⁸²

⁷⁹ Following his resignation as First Secretary, Alun Michael held several UK ministerial posts. On 15 November 2012, he was elected the first Police and Crime Commissioner for South Wales.

⁸⁰ Following a UK government reshuffle on 12 June 2003, the Wales Office and its Secretary of State was moved to a new Department for Constitutional Affairs (DCA). The DCA was renamed the Ministry of Justice in 2007.

⁸¹ David Jones was a member of the then National Assembly between 2002 and 2003.

⁸² Alun Cairns was a member of the National Assembly between 1999-2011. Cairns resigned as Welsh Secretary during the 2019 general election campaign and was not immediately replaced.

- Simon Hart MP (16 December 2019 – 6 July 2022)
- Robert Buckland (7 July 2022 – 25 October 2022)
- David T. C. Davies (25 October 2022 –)

15.3

Presiding Officers of Senedd Cymru/the Welsh Parliament

- Lord (Dafydd) Elis-Thomas AM (12 May 1999 – 11 May 2011)
- Dame Rosemary Butler AM (11 May 2011 – 11 May 2016)
- Elin Jones AM (11 May 2016 –)

Chronology of devolution in Wales

31 July 1998: The Government of Wales Act 1998 receives Royal Assent.

6 May 1999: The first elections are held for the then National Assembly for Wales. Labour forms a minority administration led by Alun Michael as First Secretary.

10 August 1999: Rod Richards resigns as leader of the Welsh Conservative group of AMs in the National Assembly. He is succeeded by Nick Bourne on 18 August.⁸³

9 February 2000: Alun Michael resigns in advance of a no-confidence vote in the Assembly. Rhodri Morgan (previously Minister for Economic Development) is elected the new First Secretary on 15 February.

24 July 2000: Welsh Liberal Democrat AMs make the first attempt to amend secondary legislation, on pre-paid prescription charges.

3 August 2000: Ieuan Wyn Jones succeeds Dafydd Wigley as leader of Plaid Cymru.

16 October 2000: The Welsh Liberal Democrats enter a coalition with Labour and Mike German becomes Deputy First Minister. The title "First Secretary" is changed to "First Minister", while Cabinet Secretaries become "Ministers".

27 November 2001: The term "Welsh Assembly Government" is adopted to differentiate between the Assembly's executive and legislative functions.

11 December 2002: In the text of a speech at Swansea University, Rhodri Morgan refers to the "clear red water" between government policy in Wales and Westminster.⁸⁴

1 May 2003: In the second National Assembly election, Labour gains 30 AMs and therefore chooses to govern without a coalition partner. Plaid Cymru's representation falls from 17 to 12, while the Conservatives gain 11 AMs and the Liberal Democrats 6. Turnout was 38.2 per cent.⁸⁵

1 March 2006: The National Assembly's new home – known as the "Senedd" – is officially opened by Queen Elizabeth II on St David's Day.

⁸³ Nick Bourne was introduced to the House of Lords in 2013 and served as an under-secretary at the Wales Office between 2015-17.

⁸⁴ BBC News online, [New Labour 'attack' under fire](#), 11 December 2002

⁸⁵ House of Commons Library Research Paper 03/45, [Welsh Assembly Elections: 1 May 2003](#).

3 May 2007: Following the third Assembly elections, Labour loses four AMs and Plaid Cymru gains three. Plaid, the Conservatives and Liberal Democrats attempt to form a "rainbow coalition" with Plaid leader Ieuan Wyn Jones as First Minister.

12 June 2007: The National Assembly's first Legislative Competence Order is published, on special needs education.

11 July 2007: Talks to form a "rainbow coalition" having broken down, Labour and Plaid Cymru instead sign the "One Wales" coalition agreement, under which Plaid leader Ieuan Wyn Jones becomes Deputy First Minister.

9 July 2008: The first "Assembly Measure", the NHS Redress (Wales) Measure 2008, becomes law following its approval by Queen Elizabeth II.

29 September 2009: Rhodri Morgan confirms his intention – first indicated in 2005 – to resign as First Minister. Carwyn Jones is elected his successor on 10 December.

5 May 2011: In the fourth elections to the National Assembly, Labour wins 30 seats while the Conservatives emerge as the largest opposition party with 14 Assembly Members. Plaid Cymru gains 11 AMs and the Liberal Democrats 5. Labour once again forms a single-party administration.⁸⁶

16 March 2012: Leanne Wood is elected leader of Plaid Cymru, succeeding Ieuan Wyn Jones.

12 November 2012: The Assembly's first piece of primary legislation, the National Assembly for Wales (Official Languages) Act 2012, receives Royal Assent.

5 May 2016: In the fifth elections to the National Assembly, Labour remains the largest party with 29 AMs. Plaid Cymru wins 12, the Conservatives 11 and the Liberal Democrats 1. In a significant departure from Welsh party politics, the United Kingdom Independence Party (UKIP) secures 7 AMs.⁸⁷

11 May 2016: An informal coalition of Plaid Cymru, Conservative and UKIP AMs blocks Carwyn Jones' re-election as First Minister. He and Plaid leader Leanne Wood are tied with 29 votes each.

18 May 2016: Following another vote, Carwyn Jones is unanimously re-elected as First Minister.

19 May 2016: Liberal Democrat AM Kirsty Williams joins the Welsh Government as Cabinet Secretary for Education.

18 May 2017: Former First Minister Rhodri Morgan dies aged 77.

⁸⁶ House of Commons Briefing Paper RP11-40, [National Assembly for Wales Elections: 2011](#).

⁸⁷ House of Commons Briefing Paper CBP-7594, [National Assembly for Wales Elections: 2016](#).

3 November 2017: Former Presiding Officer Dafydd Elis-Thomas joins the Welsh Government as Minister for Culture, Tourism and Sport, having quit the Assembly's Plaid Cymru group on 14 October 2016.

21 April 2018: Carwyn Jones announces his intention to stand down as Welsh Labour leader (and therefore First Minister) at his party's spring conference.

27 June 2018: Andrew R. T. Davies, leader of the Welsh Conservatives, announces his resignation. Paul Davies was elected leader in September 2018.

28 September 2018: Assembly Member Adam Price is elected leader of Plaid Cymru, succeeding Leanne Wood.

12 December 2018: Mark Drakeford succeeds Carwyn Jones as First Minister.

1 April 2019: The National Assembly sets a Welsh Rate of Income Tax for the first time.

6 May 2020: The National Assembly for Wales is formally renamed "Senedd Cymru" in Welsh and "Welsh Parliament" in English to be commonly known as the "Senedd".

23 January 2021: Paul Davies resigns as leader of the Welsh Conservatives. Andrew R. T. Davies becomes party leader for the second time.

5 May 2021: In the sixth elections to the Senedd, Labour remains the largest party with 30 seats but fails to achieve an overall majority. The Conservatives become the second largest party with 16 seats, followed by Plaid Cymru with 13 and the Liberal Democrats with one.

30 May 2022: The Special Purpose Committee on Senedd Reform publishes its report. This includes a recommendation that the Senedd should have 96 Members.

11 May 2023: Adam Price resigns as leader of Plaid Cymru. Rhun ap Iorwerth was elected his successor (unopposed) on 16 June.

20 March 2024: Vaughan Gething succeeds Mark Drakeford as First Minister.

8 May 2024: A majority of Members of the Senedd vote to increase the size of the Senedd from 60 to 96 MSs at the next Senedd election in 2026.

17

Appendix

Senedd elections, 1999-2021

Senedd Cymru/Welsh Parliament Elections											
	Share of vote (%)					Seats won					
	CON	LAB	LD	PC	Other	CON	LAB	LD	PC	Other	Total
<i>Constituency seats</i>											
1999	15.8%	37.6%	13.5%	28.4%	4.7%	1	27	3	9	0	40
2003	20.0%	40.0%	14.1%	21.2%	4.7%	1	30	3	5	1	40
2007	22.4%	32.2%	14.8%	22.4%	8.2%	5	24	3	7	1	40
2011	25.0%	42.3%	10.6%	19.3%	2.8%	6	28	1	5	0	40
2016	21.1%	34.7%	7.7%	21.1%	16.0%	6	27	1	6	0	40
2021	26.1%	39.9%	4.9%	20.3%	9.0%	8	27	0	5	0	40
<i>Regional seats</i>											
1999	16.5%	35.4%	12.5%	30.5%	5.1%	8	1	3	8	0	20
2003	19.2%	36.6%	12.7%	19.7%	11.9%	10	0	3	7	0	20
2007	21.5%	29.6%	11.7%	21.0%	16.1%	7	2	3	8	0	20
2011	22.5%	36.9%	8.0%	17.9%	14.7%	8	2	4	6	0	20
2016	18.8%	31.5%	6.5%	20.8%	22.4%	5	2	0	6	7	20
2021	25.1%	36.2%	4.3%	20.7%	13.7%	8	3	1	8	0	20
<i>Total</i>											
1999	..	..	..	..	..	9	28	6	17	0	60
2003	..	..	..	..	..	11	30	6	12	1	60
2007	..	..	..	..	..	12	26	6	15	1	60
2011	..	..	..	..	..	14	30	5	11	0	60
2016	..	..	..	..	..	11	29	1	12	7	60
2021	..	..	..	..	..	16	30	1	13	0	60

Westminster elections in Wales, 1997-2019

UK General Election Results in Wales											
	Share of vote (%)					Seats won					
	CON	LAB	LD	PC	Other	CON	LAB	LD	PC	Other	Total
1997	19.6%	54.7%	12.3%	9.9%	3.4%	0	34	2	4	0	40
2001	19.6%	48.6%	13.8%	14.3%	3.8%	0	34	2	4	0	40
2005	21.4%	42.7%	18.4%	12.6%	5.0%	3	29	4	3	1	40
2010	26.1%	36.2%	20.1%	11.3%	6.3%	8	26	3	3	0	40
2015	27.2%	36.9%	6.5%	12.1%	17.2%	11	25	1	3	0	40
2017	33.6%	48.9%	4.5%	10.4%	2.5%	8	28	0	4	0	40
2019	36.1%	40.9%	6.0%	9.9%	7.0%	14	22	0	4	0	40

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