



Report of the Commission on the Powers and Electoral Arrangements of the National Assembly for Wales

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This note looks at the background to the appointment of the Richard Commission and its terms of reference; the conclusions reached by the Commission and reaction to the publication of the report on 31 March 2004.

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A. Appointment of the Richard Commission

The Labour/Liberal Democrat coalition in the first term of the National Assembly for Wales agreed that there should be an independent commission to examine the powers and electoral arrangements of the Assembly. The *Partnership Agreement* of October 2000 made the following commitment:

We will, before the end of the Assembly's first term, establish an independent Commission into the powers and electoral arrangements of the National Assembly in order to ensure that it is able to operate in the best interests of the people of Wales. This review should investigate *inter alia* the extension of proportionality in the composition of the Assembly, and of the relevant competencies devolved. The review shall publish its recommendations in the first year of the second term of the National Assembly in order to enable adequate reflection on the Assembly's first complete term. Whilst recognising that this Partnership Agreement will have expired on completion of this review, we will ensure that arrangements are put in place in advance to ensure that the Assembly *as a whole* has the opportunity to press the UK Government to bring forward any appropriate primary legislation, necessary to ensure that its recommendations can be fully implemented.¹

On 18 April 2002, the First Minister, Rhodri Morgan, announced that the Commission would be chaired by the Rt Hon Lord Richard of Ammanford PC QC. Lord Richard was previously Leader of the House of Lords, EEC Commissioner, MP and UK Ambassador to the United Nations. On 31 July 2003 the names of the Commissioners were announced. Five Commissioners were appointed following an open competition and four were nominated jointly by the four party leaders in the first Assembly. The Commissioners were:

Eira Davies

Managing Director of a web publishing business. Member of the board of S4C and of Coleg Llandrillo Cymru.

Tom Jones

Farmer. Chair of Wales Council for Voluntary Action and the Millennium Stadium Charitable Trust. Former member of the Countryside Council for Wales.

Professor Laura McAllister

Professor of Governance, School of Management, University of Liverpool.

Peter Price

Former MEP. Member of National Assembly Standing Orders Commission. Solicitor, part-time Chairman of Employment Tribunal and EU consultant.

¹ *Putting Wales First: A Partnership Agreement for the People of Wales*, 6 October 2000 <http://www.wales.gov.uk/organicabinet/content/putting.html#9.%20Better%20Government:%20Putting%20Wales%20First>

Ted Rowlands

Former MP for Merthyr Tydfil and Rhymney and Cardiff North, Welsh Office Minister and Minister at the Foreign Office.

Viv Sugar

Local Government consultant and Chair of the Welsh Consumer Council. Former Chief Executive of the City and County of Swansea

Huw Thomas

Director of Taro Consultancy Ltd. Former Chief Executive of Denbighshire County Council. RNID Trustee for Wales, Lay Member of Law Society Council and consumer member of Hearing Aid Council.

Paul Valerio

First Lord Mayor of Swansea in 1982. Former Councillor, City of Swansea. Retired from family business in the amusement industry.

Sir Michael Wheeler-Booth

Retired Clerk of the Parliaments at Westminster. Member of the Royal Commission on House of Lords Reform and of National Assembly Standing Orders Commission. Special lecturer in politics, Magdalen College Oxford.

The Commission's terms of reference had been approved by the Assembly in plenary session on 20 June 2002 and can be found in Appendix 1. The Commissioners made clear in their report that they had not seen it as their role to 'evaluate the performance of the Assembly or the Welsh Assembly Government' but to limit their observations 'to matters directly relevant to the Assembly's powers and its capacity to exercise them effectively.'²

B. Consultation papers issued by the Commission

The Commission began its work in September 2002 and in November issued its first consultation paper which covered questions on the extension of the powers of the Assembly and the structural changes that would be needed if it were to acquire greater law-making powers.³ The consultation paper, *The Powers of the National Assembly for Wales: issues and questions for consultation*, also sought views on the relationship of the Assembly with Westminster and the UK Government, and on the costs and benefits of moving to a different form of devolution in Wales. Responses were invited by the end of February 2003 but this deadline was extended for the political parties to July 2003, after the Assembly elections. In January 2003 the Commission began a series of public meetings.

² *Report of the Richard Commission*, Spring 2004, p2

<http://www.richardcommission.gov.uk/content/template.asp?ID=/content/finalreport/index-e.asp>

³ See <http://www.wales.gov.uk/subirichard/content/consultations/richard-commission-e.htm>

A second consultation paper was issued in March 2003. This paper, *Electoral arrangements of the National Assembly for Wales: issues and questions for consultation*, asked for views on the electoral arrangements of the Nation Assembly:⁴

- a. is the current size of the Assembly (ie 60 Members) adequate to undertake its in meeting the needs of Wales?
- b. what evidence is there that the current duties as set out in para 12 above are not being fulfilled adequately and what scope exists to re-organise working arrangements to improve effectiveness without creating more Members?
- c. if reorganisation would not achieve the necessary improvements, what number of Members would be required for the existing responsibilities to be discharged effectively?
- d. what are the advantages, other than cost, of a relatively small Assembly which might be lost if numbers were increased?

Responses to this consultation paper were sought by June 2003.

Between October 2002 and September 2003 the Commission held 115 evidence sessions and 3 seminars. Over 300 written submissions were received and 9 public meetings were held. The final evidence taking session was held in September 2003 and the report was published on 31 March 2004.

C. The Commission's recommendations

1. Primary legislative powers

In its overview of the evidence received the Commission stated that:

The apparent paradox, of low levels of enthusiasm for what has been achieved and growing support for more devolution, may be explained by two factors:

- The view that the Assembly is held back by its limited powers;
- In spite of criticizing its performance so far, people do trust the Assembly to act in the interests of Wales.⁵

The Commission asserted that maintaining the status quo was not an option; there had been considerable changes to the Assembly's powers since 1999 but this had happened on an ad hoc basis instead of being based on an agreed policy on an extension of powers. The status

⁴ See <http://www.richardcommission.gov.uk/content/news/English%20%20-%20final.pdf>

⁵ *Report of the Richard Commission*, Spring 2004, p44

quo also depended on goodwill between the administrations in Westminster and Cardiff and more formal agreements would be needed if the administrations were led by opposing parties.

The Commission proposed a new legislative framework which would allow legislation extending to England and Wales to continue with the opportunity for Wales only legislation originating in the Assembly. Chapter 13 gave more details. The Commission noted how in practice there had continued to be legislation for Scotland at Westminster through the Sewel Convention. The report considered and rejected the Northern Ireland model of three categories of legislative powers: excepted, transferred and reserved, in favour of a more Scottish based model, whereby all matters are devolved to the Assembly unless specifically reserved to Westminster.

Under the *Government of Wales Act 1998* those functions transferred to the Assembly are specifically set out in Schedule 2 of the Act. The National Assembly currently exercises its power by passing subordinate legislation made under an Act of Parliament. The Commission accepted that the balance between Wales-only legislation passed in Cardiff and England and Wales legislation at Westminster might change over time. In the interim period before 2011 the report envisaged that Westminster should be persuaded to pass legislation in a form which offered the Assembly broad framework powers to pass secondary legislation specific to Wales.

The proposals were set out as follows:

- Wales Bill needed to amend Government of Wales Act and confer primary law-making powers on the Assembly;
- Bill specifies reserved matters (Westminster legislates); everything is devolved to the Assembly unless specifically reserved;
- Reserved matters could include: the Constitution, defence, fiscal and monetary policy, immigration and nationality, competition, monopolies and mergers, employment legislation, most energy matters, railway services (excluding grants), social security, elections arrangements (except local elections), most company and commercial law, broadcasting, equal opportunities, police and criminal justice;
- Devolved matters: the fields set out in Schedule 2 of Government of Wales Act i.e. health, education and training, social services, housing, local government, planning, culture, sport and recreation, the Welsh language, ancient monuments and historic buildings, economic development, industry, tourism, transport, highways, agriculture, fisheries, food, forestry, environment, water and flood defence;
- Corporate body structure replaced with executive and legislature;
- Assembly can construct its own rules of procedure and Standing Orders, adopted by a majority of two thirds;
- Executive powers in a particular field can be devolved even if the Assembly has no corresponding primary legislative powers;
- Cardiff legislative programme might contain around four to six government Bills a year;
- Change in Membership and electoral system;

- Option of tax-varying power.⁶

The Commission also considered whether the Assembly should seek tax-varying powers but although it thought that there was a strong case in principle for primary legislative powers to carry with them revenue varying powers this was ‘desirable but not essential to the exercise of primary powers.’⁷

2. The structure of the Assembly

If the principle of the devolution of primary powers is accepted then the Commission recommended that the structure of the Assembly would need to be changed from a single unitary body to a separate executive and legislature. The Commission found that the concept of a single unitary body was no longer sustainable and that it had contributed to the public’s confusion about responsibility for decisions.⁸ In practice, using powers in the *Government of Wales Act*, the Assembly delegates the exercise of almost all of its functions to the First Minister who in turn delegates the majority of them to other Assembly Ministers in the Cabinet.⁹ There is also a separate Presiding Office which ‘comprises the arm of the National Assembly for Wales civil service whose role is to serve all the Members of the Assembly, regardless of their political affiliation, and to ensure its successful functioning as a democratically elected body’.¹⁰

The Commission recommended that there should be a Welsh Assembly Government responsible for executive acts and decisions which would be separate from the National Assembly itself but directly answerable and accountable to it. The Commission acknowledged that scrutiny would have to be given much greater priority in the Assembly’s work, especially in the committees, if primary legislative powers are given to the Assembly. The present membership of the Assembly would be placed under considerable strain if the Assembly’s powers were broadened especially with an increased scrutiny function and the Commission recommended that there should be an increase of one third, from 60 to 80, in the number of Assembly members.

3. Electoral arrangements for the Assembly

Increasing the number of Assembly Members would have a number of implications. The Commission considered whether the increase could be achieved without changing the present method of election to the Assembly, ie the Additional Member System (AMS), by doubling the regional list Membership. There was an acknowledgement that AMS had some advantages, particularly in ensuring that the Assembly reflects all the major political parties in Wales, but that the main disadvantage was in the creation of two types of Assembly

⁶ Ibid, p250

⁷ Ibid p258

⁸ Ibid, p79

⁹ *Government of Wales Act*, section 62(5)

¹⁰ Ibid p72

Member which had led to disagreements and tensions about the activities of the regional Members. The Commission thought that an increase achieved by raising the number of regional Members would only exacerbate this problem and that, on balance, the Single Transferable Vote (STV) system would be the best alternative to the present system if the Assembly was to be increased in size.

The Commission suggested that although the size and boundaries of STV constituencies would be a matter for the Boundary Commission for Wales (these responsibilities will be transferred to the Electoral Commission following the current review of parliamentary constituencies) constituencies could be constructed to share boundaries with Westminster and a range of four to six members per constituency would provide a balance between local accountability and proportionality.¹¹ The Commission outlined the advantages and disadvantages of a STV system:

39. The advantages of STV are as follows:

- All elected Members are on an equal footing – being elected the same way – and have the same constituency responsibilities;
- It encourages a genuine interest in every constituency;
- Multi-Member constituencies could be created relatively easily by grouping Westminster seats, or by using local authority boundaries...
- It is straightforward for voters to operate...
- It maximizes voter choice (between candidates of different parties or of the same party, or candidates with no party label) and the incentive to vote and campaign;
- Constituents have a choice of elected representatives to approach with problems;
- Few votes are wasted: voters know that their second preference will help elect someone – should their first choice not be elected;
- It creates opportunities for independent candidates – because the electorate vote for the individual, not necessarily a party;
- It creates opportunities for diversity...
- More or less every vote counts equally and the result is broadly proportional – but the degree of proportionality is affected greatly by constituency size...
- Because individual Members do not have ‘safe’ seats, STV increases their accountability to their constituency.

40. The disadvantages of the system are:

- Each constituency has several Members – the link between the single Member representative and the constituency is removed;

¹¹ Ibid, p239

- It can introduce intra-party competition and factionalism – candidates in the same party have an incentive to compete against each other in campaigns and for constituency casework;
- The size of constituency could be a problem in rural areas;
- If the size of constituency is very large, it can be too easy for quite small parties to get elected;
- The counting system is relatively complex (as is the counting system for the list seats under the AMS system) – although no real problems have been encountered with this in either Northern Ireland or the Republic of Ireland.¹²

The Commission concluded that STV would ‘maintain the principle of proportionality and would not rule out the possibility of majority government – if the electorate wished it.’¹³

Labour has won more than 50 per cent of the vote in Wales just once since 1970, despite always winning a majority of Welsh seats. This was in the 1997 general election, with 55 per cent of the vote. The more proportional a voting system, the more likely it will be that a proportional government will be formed.

		Con	Lab	Lib	PC	Other	Total
General Elections							
1974	Feb	25.9%	46.8%	16.0%	10.8%	0.6%	100%
1974	Oct	23.9%	49.5%	15.5%	10.8%	0.2%	100%
1979		32.2%	47.0%	10.6%	8.1%	2.2%	100%
1983		31.0%	37.5%	23.2%	7.8%	0.4%	100%
1987		29.5%	45.1%	17.9%	7.3%	0.2%	100%
1992		28.6%	49.5%	12.4%	8.9%	0.6%	100%
1997		19.6%	54.7%	12.3%	9.9%	3.4%	100%
2001		21.0%	48.6%	13.8%	14.3%	2.3%	100%
Assembly Elections (constituency and regional total)							
1999		16.2%	36.5%	13.0%	29.5%	4.9%	100%
2003		19.5%	38.3%	13.4%	20.5%	8.3%	100%

Sources: Rallings and Thrasher, *British Electoral Facts 1832-1999*, PRS 2000
House of Commons Library Research Papers 03/59 and 03/45

An increase in the number of Assembly Members would also require an increase in the capacity of the Presiding Office to cope with the additional numbers and additional scrutiny work.¹⁴

¹² Ibid, p235-6

¹³ Ibid, p239

D. Timescale for implementation of the Commission's recommendations

The Commission set out a broad timescale within which the necessary legislation to implement its recommendations could be enacted by 2011, assuming a UK General Election in 2005. If a referendum on the measures recommended was held this could be accommodated within the timetable which is reproduced below:¹⁵

2005	Possible UK General Election
2005	Drafting approval for new <i>Wales Bill</i>
2006	Bill published for pre-legislative scrutiny
May 2007	<i>Assembly election</i>
November 2007	<i>Wales Bill</i> introduced
July 2008	Royal Assent
2008-2010	Boundary Review
2011	Election of new body with 80 Members and primary powers

In the interim period before the Assembly is granted primary legislative powers, the Commission recommended a progressive transfer of delegated powers in respect of devolved services which would allow the Assembly maximum scope to exercise its secondary legislative powers to implement its policies. This tends to presuppose that the UK administration will continue to be of broadly the same political complexion until 2011.

E. Referendum

The Commission considered whether its recommendations would require a further referendum although this was not within its terms of reference. It stated that it was crucial that the people of Wales were consulted about the changes proposed whether this was through a general Election or a referendum. The Commission concluded that the judgement as to whether a referendum should be held 'is one for the UK government and Parliament to make in the light of their assessment of the response to our report and the ensuing debate in Wales.'¹⁶ First Minister, Rhodri Morgan, has said that any changes to the Assembly's powers would not require a new referendum. Answering questions at First Minister's Question Time on 23 March 2004 he said:

¹⁴ Ibid, p257

¹⁵ Ibid, p261

¹⁶ Ibid, p262

as the initiator of policy on devolved matters and its capacity to do this has developed considerably ...

“We didn’t think the status quo was a sustainable option. The weight of the evidence presented to us pointed clearly towards giving the Assembly greater powers – so that it could implement the policies on which Members were elected and be directly accountable to them ...

“The surprising thing – and I want to emphasise this – is that we didn’t reach this conclusion because the system isn’t working. Almost the opposite in fact. It is precisely the success of the Assembly and the Welsh Assembly Government in establishing itself as the government of Wales in the key public policy areas that creates the pressure for change.

“We examined in detail the dynamics of the present situation and found that the Assembly is increasingly setting the legislative agenda for Wales in devolved areas and negotiating with Whitehall and Westminster for the legislation it needs. Since this is already happening, and likely to happen increasingly in future, it seemed to us that the most efficient and straightforward process would be for the Assembly itself to pass this legislation in Cardiff.”²⁶

The First Minister supported the case for primary powers but expressed some doubt about changing the electoral system and increasing the number of Assembly members.²⁷ Press reports indicated division within the Welsh Labour Party. Seven North Wales Labour MPs issued a joint statement opposing major changes to the devolution settlement without a referendum.²⁸ Llew Smith has expressed the view that the recommendations for a larger Assembly with a new voting system were not supported by public opinion. The Welsh Labour Party is due to hold a special conference on 11 September to consider the Commission recommendations. There is concern among Welsh MPs that the creation of primary legislative powers would diminish their role at Westminster and lead to a cut in their numbers.

The Liberal Democrat Assembly leader, Mike German, welcomed the report as at the heart of the aims of the Welsh Liberal Democrats in the Partnership Government set up in the first term of the Assembly. Plaid Cymru have argued that the changes proposed were too limited in scope.

The Conservative Leader in the Assembly, Nick Bourne, pressed for a referendum:

‘Law-making powers and any increase in the number of AMs must be matched by a reduction in the number of MPs from Wales. While we oppose any suggestion that the Assembly should be given law-making and tax-raising powers, we do welcome

²⁶ See Institute of Welsh Affairs News Analysis ‘Richard Commission recommends primary powers’ from http://www.iwa.org.uk/news_analysis/richardanalysis.htm

²⁷ “Help Wales to forge its future” *Western Mail* 3 April 2004

²⁸ “It’s not enough, says Plaid, while Tories demand a referendum” *Western Mail*, 1 April 2004. See Appendix 2 for full transcript

the Commission's recommendation to draw a clear distinction between the executive and the legislature.²⁹

²⁹ “It’s not enough, says Plaid, while Tories demand a referendum” *Western Mail* 1 April 2004

H. Appendix 1 – Selected press commentary on the report

1. It's not enough says Plaid, while Tories demand a referendum

Western Mail, 1 April 2004

Wales needs the full range of law-making and fiscal powers to realise the full potential of its people, according to Plaid Cymru in its response to the Richard Commission's recommendations. The party welcomed the Richard Commission's acknowledgement that the current constitutional settlement was too weak and confusing, but said that the changes it proposed were too limited in their scope. Party president Dafydd Iwan, Assembly leader Ieuan Wyn Jones and Parliamentary leader Elfyn Llwyd said in a joint statement, 'For too long, Wales has been governed by parties whose first priority is to London and they have lacked the vision to make Wales a modern, confident nation, ready to take its place in the world. We now have the chance to change that. While we welcome the move towards primary law-making powers, we believe that the Commission has missed an opportunity to be even more radical in its approach. The reform of the Barnett formula is essential if we are to improve our economic performance. Since the advent of the Assembly, our GDP relative to the rest of the UK has fallen by 4%. Under the existing Barnett formula, the increase in our share of public spending is falling year on year.' Plaid Cymru, in its evidence to the Commission, demanded full primary law-making powers over all the devolved areas, fiscal powers to vary income, corporation and environmental taxes, and reform of the Barnett formula. 'Without these fundamental and necessary reforms, Wales will still have second-class powers and will not be able to move forward with confidence. We cannot move forward on improving our public services or our economic performance without the tools to do the job. We must go beyond Richard if we are to release the full potential of our nation - that's why we are demanding Richard Plus - in other words a proper Parliament. Only the best will do for Wales.'

Conservative Assembly Leader Nick Bourne said, 'If Labour wants more powers for the Assembly, then they must consult the people of Wales in a referendum. Labour cannot steamroller Wales into major constitutional change without asking the electorate. Giving the Assembly law-making and tax-raising powers would be a significant change to the way Wales is governed and must have a clear public mandate. Without it, the new settlement would be extremely fragile and could be undone in the same way as it was created. Not only does the Labour Party want to sneak major constitutional change in through the backdoor, it is clear they also want to gerrymander the electoral system to protect their own interests. A strong opposition in the Assembly has been essential in holding this discredited Labour Government to account. Without it, in the future Labour would be able to treat Wales like its own private fiefdom. Law-making powers and any increase in the number of AMs must be matched by a reduction in the number of MPs from Wales. While we oppose any suggestion that the Assembly should be given law-making and tax-raising powers, we do welcome the Commission's recommendation to draw a clear distinction between the executive and the legislature. For too long opposition parties have been blamed for the failures of Labour and the Labour Assembly Government. There are many

areas in which the Assembly could be improved under the current settlement. Some of these are identified in the report - but that does not mean a wholesale shift in the way in which Wales is governed.'

Welsh Liberal Democrat Assembly leader Mike German welcomed the recommendations of the report, saying, 'The Commission was at the heart of the aims of the Welsh Liberal Democrat-driven Partnership Government. After two years of careful deliberation, the Commission has now made a clear case for change. These proposals offer a stable and permanent settlement capable of winning support across the whole of Wales.'

Two things are clear from the conclusions of the Commission: independence is not an option and we cannot stay as we are. The report is authoritative and independent and makes a clear case for change in the way we run Wales and its public services. And it gives a timescale, so that devolution has a date of 2011 when the process will end. Wales needs a Welsh Parliament with primary law-making and tax-varying powers, elected by a fair voting system which allows people, not political parties, to choose their representatives.

Richard makes it clear that the initiative for Welsh policy already rests in Wales. The drive for laws appropriate for Wales already comes from the Assembly but that drive has been blocked because it is not possible for UK ministers to pilot such legislation with conviction. And it is not possible for UK MPs to scrutinise it with vigour. There is never enough Parliamentary time available to Wales, so we have the worst of both worlds: the Assembly has the initiative but not the power and Parliament has the Power but not the initiative. The self-confidence and development of the Welsh nation within the UK has been evolving apace over the last 40 years. It has been a continuous but often messy process. The Richard Report is an important next step. Rhodri Morgan has been consistently strong and principled on this issue and I hope that politicians of all parties and, just as important, people across Wales will read it carefully so that we can all engage in the debate it generates.'

Ron Davies, Secretary of State for Wales during the 1997 devolution referendum, said the report was progressive. 'What I am surprised at is how radical it is and how far-reaching it is. I think that the progressive forces in Wales can get behind this. The question now is for the Labour Party - will the Labour Party be prepared to get behind it. Referring to his famous quote on the morning of the devolution referendum in 1997 that it was 'a very good morning in Wales', Mr Davies added, 'It is still a good morning in Wales, and it will be an even better morning in 2011 when we have a proper Parliament.'

Earlier this year Mr Davies left Labour and joined the left-leaning Forward Wales party.

A Welsh Labour spokesperson said, 'Any decision we make will be based on the best way to provide better public services and build stronger communities for the people of Wales.'

A consultation process with our members has been agreed and a final decision will be taken by a Special Conference in September. This is a democratic and open process and it will be for our members to decide our position.'

2. Report proposes greater power for Welsh Assembly

Guardian, 1 April 2004

Bitter divisions over devolution in Wales were reopened yesterday when an independent commission recommended more powers for the Cardiff-based national assembly, including the right to pass legislation.

As the first minister, Rhodri Morgan, welcomed its findings, several MPs accused the Assembly government of pursuing a quasi-nationalist agenda.

Chaired by the former leader of the House of Lords, Lord Richard, the cross-party Commission called for the five-year-old assembly to get law-making powers over devolved areas such as health and education by 2011.

It also suggested increasing the size of the assembly from 60 to 80 with a new system of proportional representation - the single transferable vote, already used for non-Westminster elections in Northern Ireland - rather than the present set-up of electing 40 constituency AMs (assembly members) topped up by an extra 20 from party lists. Controversially, the commission also said it was "desirable, though not essential" for a strengthened assembly to have the power to vary taxation.

Yesterday afternoon the First Minister, who favours legislative powers similar to those of the Scottish parliament, said: "We all have good reason to be proud at what this signifies . . . a sign of growing maturity in the political process."

He declined to react in more detail. The Welsh Labour party will have to finalise its response to the report at a special conference in September.

Clear divisions have already emerged between the party's AMs and Welsh MPs, more than half of whom - 19 - have urged the UK government not to give more powers to the assembly without another referendum.

While the last referendum in 1998 delivered devolution by a wafer-thin majority, the Welsh assembly government now maintains that support has strengthened considerably.

But the Labour MP for Wrexham, Ian Lucas, said: "I am very concerned about being carried along by a political elite undertaking a pseudo-nationalist agenda."

Llew Smith, MP for Blaenau Gwent, who campaigned for a no vote in the 1998 referendum, accused the assembly of being out of step with public opinion.

"They have the cheek to demand extra powers when they haven't used the ones at their disposal," he said.

Peter Hain, the secretary of state for Wales and leader of the Commons, warned that

another referendum would be needed for the assembly to become closer in structure to the Scottish parliament.

3. Report calls for more power for Welsh Assembly

Times, 1 April 2004

A report called yesterday for a substantial expansion of the Welsh Assembly with law-making powers, another 20 elected members and a new proportional voting system.

It further suggested that the Assembly should be able to vary taxes, making its powers equivalent to those of the Scottish Parliament, but said this was "desirable, though not essential".

The proposals, from an all-party commission chaired by Lord Richard, the former Leader of the House of Lords, will unleash a fierce debate in the Labour Party.

Labour Assembly members, led by Rhodri Morgan, the First Minister, are keen for more powers but will be opposed by Labour MPs, some of whom fear their role will vanish; others are critical of the Labour-led Assembly for ducking public service reforms.

Some expect Peter Hain, the Welsh Secretary and Commons Leader, to seek a deal with Mr Morgan that backs a bigger assembly with law-making powers but rejects a switch to the single transferable vote. Mr Hain prefers this alternative voting method.

However, his deputy, Don Touhig, the junior Wales Office Minister, is said by MPs to oppose giving the Assembly more powers. Mr Touhig is close to Gordon Brown, the Chancellor, for whom he was formerly parliamentary private secretary.

The Welsh Labour Party has called a conference on September 11 to debate its policy as a first step towards including the plans in its manifesto. There will be further controversy over whether it would require a referendum.

It may then go to the party's autumn conference in Brighton where trade unions, which have applauded the Assembly's rejection of Blairite reforms, particularly in the health service, could combine with devolutionists to force it through.

Lord Richard's report proposed that, by 2011 or sooner, the National Assembly for Wales should increase in size from 60 to 80 members, elected by single transferable vote in multiple-member constituencies.

Running costs would rise by about £10 million a year, it said.

Liberal Democrats welcomed the recommendations, the Conservatives said they

would oppose primary legislation or tax-varying powers and Plaid Cymru said they did not go far enough.

4. Help Wales to forge its future

Western Mail, 3 April 2004

It's been a 'red letter' week in Welsh politics. Lord Richard published his long-awaited report on Wednesday, recommending primary law-making powers for the National Assembly by 2011. Now First Minister Rhodri Morgan responds in depth to the landmark review, congratulating the nation for rising above that ultimate turn-off - yah-boo politics.

The most remarkable thing about this week's events have been a four party non-party Commission on Assembly powers and voting systems coming up with a unanimous report under Ivor Richard's brilliant chairmanship. The second is the way Wales has risen above yah-boo politics in its reaction to it. That is what has made me prouder than ever to be the First Minister of Wales.

Most of the credit for this goes to the 10 Commissioners for producing a measured and consensual response to those two difficult questions that will always tend to generate more heat than light. The measured and reasonable tone of most of the vox pops I've heard and most of the politicians who have commented is a tribute to Wales' growing maturity.

I've never known the yah-boo quotient to be so low!

The other miracle is that the contents of the report didn't leak out. I must ask Ivor Richard what the secret is. That is another tribute to him and his fellow Commissioners.

We don't all have to agree on the way forward, but the way this debate is conducted will have a fundamental impact on the way Wales is governed in the future. Slanging matches between politicians turn people off. This is too important an issue.

Of course, people were asking me what I thought of its recommendations even before the report was published. Speed-reading is a required skill as First Minister - telepathy I have yet to conquer.

Now I have had more time to consider the key recommendations, I have just a few signposts to offer.

The most fundamental question is whether Wales-only laws should be proposed, debated, scrutinised and enacted in the Houses of Parliament in London, or in the Assembly in Wales. The Richard Commission says it should happen in Wales but after a kind of apprenticeship period to develop the legislative skills. I warm to that approach.

Those instant critics of Richard include those who opposed the creation of the Assembly in the first place and naturally they don't want it to have law-making powers. Others think there should never be any Wales-only laws. But Parliament in London has always passed a few Wales-only laws, even back in the 16th Century - not many, I grant you, but there will always be some Wales-only laws being passed. The question therefore cannot be ducked. Where should those Wales-only laws be originated and passed, or rejected for that matter?

Other Richard Commission recommendations seem less central to Wales' future to me. The public may not be that keen on increasing the number of AMs from 60 to 80, nor on reducing the number of MPs elected from Wales to Westminster, and the switch from one voting system, the German-New Zealand Additional Member System, to the Irish Single Transferable Vote System. I don't instinctively warm to that package of proposals, but I am willing to be converted. It may take three or four readings of Richard to convert me.

The next key question is whether passing laws in the Assembly is so different from the September 1997 referendum that it needs to be preceded by another referendum. I certainly agree that you could not bring in tax-raising powers without a referendum. The Scottish referendum in September 1997 had a separate question on tax. The Welsh referendum did not, and the whole referendum would certainly have been lost, if there had been any suggestion of powers of taxation for the Assembly.

However, with law-making powers, it is much less clear cut. The kind of Assembly we have now is already quite different from what was voted on in the 1997. The referendum model of the Assembly had no Cabinet and no Ministers. My job, now First Minister, carried the title of 'Leader of the Executive Committee'. All decisions would be made by committees as in local government before the recent reforms.

Why was the devolution model changed to the one with a Cabinet and Ministers? Because a Conservative ex- Minister in the House of Lords, Lord (Wyn) Roberts, persuaded Parliament that you had to have proper accountability for decisions and proper scrutiny.

That is why the Government of Wales Act was changed fundamentally. It certainly was not done for the good of the Welsh Conservative Party. It was done for the good of Wales. It was done without a call for a further referendum.

Is the two-stage process towards full law-making powers any wider a Rubicon than the changes which have already occurred since September 1997 in enacting the Government of Wales Act in Parliament or in the changes we have made since the Assembly was set up?

Within the Labour Party, we will be having a democratic process to determine our policy. As Leader of the Party in Wales, as well as First Minister, I am aware that my views will influence that debate.

As I told party members last week, the sort of leadership which I intend to provide is one which knows the strength of listening and learning from others, as well as lecturing from the front.

I urge you to read a summary of the Richard Commission report.

It is not just for political animals like me. It is about agreeing on the best way to deliver public services in Wales and to give our children a modern and sustainable nation.

What could be more important than that?

I. **Appendix 2 – Terms of reference of the Richard Commission**

Assembly powers

The Commission should consider the sufficiency of the Assembly's current powers, and in particular:

- whether the Assembly's powers are sufficiently clear to allow optimum efficiency in policy-making;
- whether both the breadth (ie the range of issues over which it has control) and the depth (ie the capacity to effect change within those issues) of the Assembly's powers are adequate to permit integrated and consistent policy-making on issues where there is a clear and separate Welsh agenda;
- whether the mechanisms for UK Government policy-making as regards Wales, and the arrangements for influence by the Assembly on these, are clear and effective, and in particular whether they correct any apparent shortcoming from the previous item;
- whether the division of responsibility between the Assembly and the UK Government places inappropriate constraints on Whitehall policy-making, both on matters over which the Assembly has control and otherwise.

The Commission should consider any possible financial implications arising from the implementation of its proposals.

Electoral arrangements

The Commission should consider the adequacy of the Assembly's electoral arrangements, and in particular:

- whether the size of the Assembly is adequate to allow it to operate effectively within a normal working week, and without placing undue pressure on Members;
- whether the means of electing the Assembly, including the degree of proportionality, adequately and accurately represents all significant interests in Wales;
- whether any changes which may be recommended to the Assembly's powers make either necessary or desirable changes to the size of the Assembly or the means of electing it.³⁰

³⁰ *Report of the Richard Commission*, Spring 2004, p265-6