

**Accelerating History –  
the 1979, 1997 and 2011  
referendums in Wales**

By John Osmond

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Institute of Welsh Affairs

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## Cover Photograph

The four party leaders in the Senedd on 4 March 2011 as the referendum results were announced – Ieuan Wyn Jones (Plaid Cymru), Nick Bourne (Welsh Conservatives), Carwyn Jones (Welsh Labour) and Kirsty Williams (Welsh Liberal Democrats). Photo: Natasha Hirst.



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## Accelerating history

Referendums are often regarded as conservative devices designed to frustrate progressive initiatives, especially where constitutional change is concerned. In the case of Wales, however, the three referendums of 1979, 1997 and 2011 had the opposite effect. The experience of living through them had a galvanising impact on the Welsh people. It changed their view of themselves and their country. It made them more Welsh in outlook and identity and more willing to contemplate radical constitutional options. In short, the referendums accelerated Welsh progress towards autonomy.

Of course, the 1979 referendum was instigated by those opposed to devolution, and it resulted in a heavy four-to-one defeat for the Welsh Assembly proposed at that time. Yet the overall outcome was to precipitate events and unleash forces that radically changed Welsh society. In the decade following 1979 these events and political and economic forces came together to underpin the emergence of a Welsh political nation. In turn, and within less than two decades this provided the basis for a constitutional advance.

Again, the 1997 referendum in Wales was certainly not sought by those advocating constitutional change. Instead, it was a by-product of a decision made in 1996 by Labour's Opposition leader Tony Blair in response to a problem he had in Scotland. The promise of a referendum was needed there to remove from the agenda of the forthcoming British general election the tax varying powers being proposed for the Scottish Parliament. And if a referendum was necessary for Scottish devolution, it followed that one had to be held in Wales as well.

Although the referendum was not sought in Wales, its impact in September 1997 was profound. It ensured, for instance, that when the National Assembly for Wales was established in 1999 it was elected using a partial form of proportional representation, sufficient to prevent overweening Labour dominance and to ensure a new fluidity in Welsh politics.

More immediately, the narrowness of the result - with its tiny 6,721 vote majority, out of a million votes cast - made the affair into something of a melodrama. This had the effect of concentrating the minds of the people of Wales. There is no doubt that their attitudes to possible constitutional futures for their country underwent profound changes as a direct result of living through the 1997 referendum.

By the time the 2011 referendum approached it was the pro-devolution forces that were seeking it, in order to secure a further powers for the National Assembly. A referendum was the central feature of the *One Wales* coalition agreement negotiated between Labour and Plaid Cymru in the wake of the 2007 Assembly election.<sup>1</sup> The prospect of a referendum was contained in the 2006 Wales Act. This stated that one would be needed to give the National Assembly direct legislative powers over the functions for which it was responsible, from education and health to economic development, the environment and rural affairs.

The 2006 Act was Labour's response to the recommendations of the cross-party Richard Commission which, in the Spring of 2004 had recommended a fully legislative Assembly, with 80 members elected by the STV system of proportional representation. Labour, or at least most of the Welsh Labour MPs at Westminster,

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<sup>1</sup> See John Osmond, *Crossing the Rubicon: coalition politics Welsh style*, IWA, August 2007.

balked at these recommendations, which the Commission had insisted were interconnected and should be implemented as a whole, and especially the STV proportional system. Instead, the 2006 Act accepted that the Assembly could become a fully-fledged legislature, but only following a referendum. Further, the referendum could only be put into effect following a two-thirds majority vote by Assembly Members and subsequent approval by the Westminster Parliament.

These hurdles were obstacles placed in the path of the Assembly's development to mollify Welsh MPs hostile to the devolution process.<sup>2</sup> In the event they had the opposite effect. The holding of the referendum, and the experience of the campaign in the early months of 2011, only served to whet the electorate's appetite for even more powers. Once again, the experience of a constitutional referendum proved an accelerator in Welsh political history.

## The political nation

In this discussion a key question will be: what it is that constitutes a political nation? The distinctive cultural identity of Wales is not in doubt. However, do constitutional politics necessarily flow from the presence of a cultural community? What requirement is there for the cultural identity of Wales to be accompanied by political institutions?

Of course, Plaid Cymru has always been convinced of the necessity. This is its *raison d'être*. Saunders Lewis, one of the party's founders and also a poet and playwright of international repute, made the essential case as far back as 1930. As he put it:

If a nation that has lost its political machinery becomes content to express its nationality thenceforward only in the sphere of literature and the arts, then that literature and those arts will very quickly become provincial and unimportant, mere echoes of the ideas and artistic movements of the neighbouring and dominant nation. If they (the Welsh people) decide that the literary revival shall not broaden out into political and economic life and the whole of Welsh life, then inevitably Welsh literature in our generation will cease to be living and viable.<sup>3</sup>

However, such ideas were held by a small minority for much of 20<sup>th</sup> Century Wales. Even after Plaid Cymru began to make political advances in the 1960s, its support was confined to around 10 per cent of the electorate. The argument of this paper is that it took the referendums experienced in the late 20<sup>th</sup> Century to persuade a significant proportion of the population, beyond the core Plaid Cymru support, to embrace the idea of Wales as a political nation.

The best short definition of a political nation that I have come across was provided by the Dutch theorist Herman Dooyeweerd, half way through the 20<sup>th</sup> Century. As he asserted:

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<sup>2</sup> In July 2009 Peter Hain who, as Secretary of State for Wales, promoted the 2006 Act, warned, "I have no doubt that if a referendum were held today, it would be lost. Indeed, I cannot see a successful one happening until well into the next decade" ('Devolution's Next Step', IWA, *Agenda*, Summer 2009).

<sup>3</sup> Saunders Lewis, *The banned wireless talk on Welsh Nationalism*, 1930. See Dafydd Glyn Jones's essay on 'The Politics' of Saunders Lewis in Alun R. Jones and Gwyn Thomas (Eds.) *Presenting Saunders Lewis*, University of Wales Press, 1973, for an extensive discussion.



A nation is a people ... which has become conscious of its internal political solidarity.<sup>4</sup>

Even as late as the 1970s, as I will argue, Wales could not be regarded in this light. Disputes around the position and status of the Welsh language were only the most salient illustration of a lack of Dooyeweerd's "internal political solidarity". In itself this was a major reason, I would argue the major reason, why at that time a referendum could not succeed, and, indeed, why the 1979 referendum was lost so heavily.

This was in contrast with Scotland where a majority was achieved, though not sufficiently high to overcome the infamous hurdle of at least 40 per cent of the electorate assenting.<sup>5</sup> Nevertheless, the experience of building Welsh politics to such a position that legislation for a Welsh Assembly went through the Houses of the Westminster Parliament in all their tortuous stages during the 1970s was a boost to Welsh political life.

Living through the resultant referendum and then its aftermath provided an immediate acceleration to Welsh political history, radically altering the outlook of many key political players and eventually the wider Welsh people.

Another way of thinking about this process is to compare Wales with Scotland. In Scotland the new Parliament that re-assembled in 1999 took charge of a pre-existing array of civic institutions that had survived and flourished beyond the 1707 parliamentary union with England. These included a distinctive legal system, a separate structure for education, and the Scottish Kirk. Later were added Scottish financial institutions, a system of administration in the form of the Scottish Office from the 1880s, and a highly developed press and media. To a great extent Scottish identity revolved around these institutions. They provided Scots with a civic, and because of that a unified sense of their nationality. Consequently, when the Scottish Parliament met in 1999 it was as though a keystone was placed in the arch of an already-existing structure.

In Wales the position could not have been more different. Apart from a much shorter experience of separate administration, by the Welsh Office from 1964, the idea of a civic identity embracing the whole of Wales was foreign to the Welsh. Instead, their identity relied upon a much more fractious sense of locality, language and culture. This was one reason why, in contrast to the Scots, the idea of a National Assembly was so controversial and when it came in 1997, only narrowly achieved. Moreover, when it came, far from completing an institutional structure, the Assembly had to set about building one. Before it could become the keystone it had, so to speak, to construct the arch.

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<sup>4</sup> Herman Dooyeweerd, *A New Critique of Political Thought*, page 470, Amsterdam, 1957. It is quoted in R. Tudor Jones, *The Desire of Nations*, Christopher Davies, 1974.

<sup>5</sup> The inclusion of this requirement in the legislation was testimony to the referendum's undoubted role as a device to prevent devolution going ahead. Since World War II no political party forming a government in Britain has won more than 40 per cent of the electorate. It was an impossible hurdle to mount and was quietly dropped as a requirement in the 1997 referendum.

## The 1979 referendum

The modern era of Welsh politics can be said to begin in June 1966 when Gwynfor Evans won his by-election victory for Plaid Cymru in Carmarthen. Together with the Scottish Nationalists' success in the Hamilton by-election the following year, this thrust the constitutional position of Wales and Scotland seriously on to the political stage for the first time since the end of the 19<sup>th</sup> Century.

The Government response was to establish the Kilbrandon Commission on the Constitution in 1969 to undertake a wide-ranging survey of the potential for devolution to Scotland and Wales. However, by the time the Commission reported in late 1973, the issue appeared to have gone off the boil, and in any event had been overtaken by more pressing concerns such as the oil crisis. There was a cursory debate in the House of Commons, but the Kilbrandon report was sidelined. No mention was made of devolution in the manifestos of either Labour or Conservatives in the February 1974 'Who governs?' general election, called amidst a miners strike.

However, the narrowness of the Labour victory, and the gains made by both Plaid Cymru and the SNP, brought devolution swiftly back on to the agenda. With many of its Scottish seats threatened by the SNP, Labour hurriedly dusted off the Kilbrandon report and produced plans for Scottish and Welsh Assemblies. These were duly contained in its manifesto for the October 1974 election. The legislation that followed was to preoccupy Westminster and dominate Welsh and Scottish politics for the rest of the decade.

Bills to establish Welsh and Scottish Assemblies were eventually passed, but subject, to the referendums that were held on 1 March 1979. However, what the campaign leading up to the referendum in Wales demonstrated was that the country had not yet sufficiently developed a sense of nationality in that sense of Herman Dooyeweerd's "internal political solidarity".

Of course, the campaign was conducted in the worst of possible circumstances, in the middle of the so-called Winter of Discontent. James Callaghan's Labour government was beset by strikes in the public services. Piles of rubbish were left uncollected amidst ice and snow on the streets. Even the dead went unburied in some areas. This dramatised the general unpopularity of government, any government at the time. 'Get the Government off your back', was a slogan being promulgated by the leader of the Opposition, one Margaret Thatcher. Pro-devolutionists were shouting in the wind, trying to make the case for what the anti-devolutionists dubbed 'more government'.

But underlying these generally superficial arguments, was what opponents of the Assembly in Wales accurately identified as a distrust that existed between Welsh communities at that time. Undoubtedly, this was the major cause of the scale of the referendum defeat, compared with Scotland. No-one was more cunning in this respect than the architect of the referendum, Leo Abse, MP for Pontypool. As he argued:

It is clear, isn't it, that in the Assembly people are going to exercise their undoubted right to speak Welsh. And, indeed, how could you deny it? Once they speak Welsh it means that you have to have interpreters for them, who have in the nature of things, to speak Welsh. Then all the top civil servants would have to speak Welsh because the same members who would speak Welsh in the Assembly would speak Welsh in committees and select committees. So it can't be disputed that, once there is an insistence on the

part of those who are going to the Assembly that they have the right to use the language, once that is established, you get the pattern for a huge and influential bureaucracy and it is one which will not be open to my people in Gwent.<sup>6</sup>

From the other side the view was often expressed that, contrary to the Welsh language gaining an advantage, it could be threatened by Welsh democracy. This is how the Carmarthen-born academic lawyer David Williams (later Vice Chancellor of Cambridge University) put it in 1975:

The current policy of official benevolence, under a system of government from London combined with administrative decentralisation, may well be the most effective guarantee which supporters of the Welsh language can hope for in the immediate future. Simple democracy has its perils.<sup>7</sup>

In February 1979 the 'Labour No Assembly campaign' published a wide-ranging manifesto which tellingly took head on the notion that Wales should have its own political institutions simply because it was a nation. Drafted by Bedwellty MP Neil Kinnock and his constituency secretary, the late Barry Moore, the document accepted the nationality of Wales but rejected the idea that this should entail taking on the responsibilities of what it described as nationhood:

The view is put forward, of course, that Wales has a special identity and urgent needs which make Devolution necessary. The Nationalists and Devolutionists say 'We are a nation, that makes a difference', 'We have a Welsh Office, that makes a difference', 'We have a Wales TUC, that makes a difference'. But none of that takes account of the realities. We are a nation, proud of our nationality. BUT there is little or no desire for the costs, responsibilities of nationhood as the puny voting support for the Nationalists shows. We do not need an Assembly to prove our nationality or our pride. This is a matter of hearts and minds, not bricks, committees and bureaucrats.<sup>8</sup>

The extent to which such arguments gained purchase in 1979 demonstrated that Wales had not matured as a political nation. As the main political party in Wales, Labour was itself divided. The only political party convinced about devolution was Plaid Cymru, but it was a marginal force in Welsh life, winning around 10 per cent of the vote in general elections. There was only a vestigial notion of a Welsh civil society involving other groupings, and especially business. In short, there was very little "internal political solidarity".

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<sup>6</sup> Gwyn Erfyl, *Talking about devolution: interview with Leo Abse*, Planet 47, 1979.

<sup>7</sup> D.G.T. Williams, 'Wales and Legislative Devolution', in Harry Calvert (Ed.) *Devolution*, Professional Books, page 77, 1975.

<sup>8</sup> Labour No Assembly Campaign Wales, *Facts to Beat Fantasies*, page 6, February 1979. This important 50-page document can be seen at the Welsh Political Archive in the National Library.

## The 1980s

Nonetheless, and albeit that it inflicted an undoubted defeat on devolution at the time, the 1979 referendum set in train a series of events that, with extraordinary rapidity, changed these realities fundamentally. The immediate effect was a vote of no-confidence in James Callaghan's Labour government, and the inauguration of eighteen years of Conservative rule. This was to have profound consequences. Oddly enough, so far as Wales was concerned, the first related to the language. Mrs Thatcher's incoming government soon reneged on a commitment to establish a Welsh language television channel, saying that Welsh language broadcasts should continue to be spread across the existing BBC and commercial channels.

This served to unite Welsh and English speaking Wales, the former because they wanted their own channel, the latter because they wanted the Welsh language removed from the English language channels they watched. In May 1980 Gwynfor Evans announced that he would fast to death unless a Welsh channel was established, as originally promised. This prompted a wave of activity and meetings across Wales, with thousands refusing to pay their television licence. But in September, a few weeks before Evans's fast was due to begin, the Government capitulated.

I recall attending the Press conference where the Conservative Secretary of State for Wales, Nicholas Edwards announced the decision. "We have lost the middle ground of opinion in Wales," he explained.<sup>9</sup> This was an extraordinary moment in the history of Welsh politics coming so soon after the referendum. There was now a middle ground of opinion on the Welsh language which was identified with Plaid Cymru.

Shortly before the referendum Saunders Lewis published the following letter in the *Western Mail*:

We are asked to tell the Government on St David's Day whether we want a Welsh Assembly or not. The implied question is: 'Are you a nation or not?' May I point out the probable consequences of a 'No' majority. There will follow a general election. There may be a change of government. The first task of a new Westminster Parliament will be to reduce and master inflation. In Wales there are coal mines that work at a loss; there are steelworks that are judged superfluous; there are still valleys that are convenient for submersion. And there will be no Welsh defence.<sup>10</sup>

Lewis's message was prescient. Within a few years Welsh steel mills and coalmines were being closed on a large scale and unemployment rose steeply. The 1984-85 miners strike was a seminal event that prompted collective action in support from across Wales, orchestrated by a new organisation known as the Wales Congress in Support of Mining Communities. Hywel Francis, Chairman of the Congress, wrote at the time that the strike was creating a sense of Welsh identity that transcended language and regional differences:

We brought together all these disparate elements across Wales and outside Wales which were supporting the miners. What we were trying to say was that Wales was united and they were embracing the miners and so we were creating a sense, a perception, that the miners, as the Cymdeithas yr Iaith slogan said, are fighting for Wales.<sup>11</sup>

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<sup>9</sup> Press conference, 17 September 1980.

<sup>10</sup> *Western Mail*, 26 February 1979.

<sup>11</sup> Quoted in Leighton Andrews, *Wales Says Yes*, Seren Books, 1999, page 48.

One of the leaders of the miners, Kim Howells, now Labour MP for Pontypridd, reflected at the time that the strike had led himself and others to discover, as he put it,

... that we are part of a real nation which extends northwards beyond the coalfield, into the mountains of Powys, Dyfed and Gwynedd. For the first time since the industrial revolution in Wales, the two halves of the nation came together in mutual support.<sup>12</sup>

This judgement was confirmed a quarter of a century later by Hywel Francis himself by then Labour MP for Aberavon, who said the strike paved the way for 1997. He added that it “created a Welsh unity and identity, overcoming language and geographical differences, which failed to materialise in 1979”.<sup>13</sup>

Other elements came together in these years. A diverse range of new organisations emerged, from the Welsh Union of Writers to the Institute of Welsh Affairs and the St David’s Forum, all dedicated to promoting Welsh preoccupations. New publications were launched, including Rebecca, Arcade, Radical Wales, Planet (re-launched in 1985), and New Welsh Review. The rise of the women’s movement found political outlets in the miners’ strike and perhaps most notably, in the march to Greenham Common that originated in west Wales to protest against Cruise Missiles.

There were intellectual undercurrents, too, in particular a discovery of Welsh history, with television programmes and publications stimulating a good deal of popular interest.<sup>14</sup> Their impact was to solidify the connections between the Wales of the present with the past, an essential dimension in developing the “internal solidarity” of the people. A leading Welsh intellectual during this period was Raymond Williams, Professor of Drama at Cambridge. In a review of several new volumes of Welsh history he observed that they were an example of, as he put it, “industrial South Wales recovering its actual history”:

Every reader of this new history will find, at some point, a moment when his own memory stirs and becomes that new thing, an historical memory, a new sense of identity and relationships. I can record my own moment. I have always remembered my father, a railwayman, growing potatoes along the edge of a neighbouring farmers field, and then helping his farmer friend with the harvest. But what I just did not know was the complex history of potato setting, and its formal and informal labour obligations... The personal memory, local and specific, is then suddenly connected with the history of thousands of people, through several generations. As the particular and general, the personal and the social, are at last brought together, each kind of memory and sense of identity is clarified and strengthened. The relations between people and ‘a people’ begin to move in the mind.<sup>15</sup>

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<sup>12</sup> Kim Howells, ‘Stopping Out’ in Huw Beynon (Ed.) *Digging Deeper*, Verso, 1985, page 147.

<sup>13</sup> Hywel Francis, *History on our Side – Wales and the 1984-85 Miners’ Strike*, Ferryside: Iconau, 2009, page 69.

<sup>14</sup> Most notable was the 1984 HTV series *The Dragon Has Two Tongues*, in which presenters Wynford Vaughan Thomas and Gwyn Alf Williams argued their way through two millennia of Welsh identity politics. Williams’s associated volume *When Was Wales* was published by Penguin in 1984.

<sup>15</sup> Raymond Williams, ‘Remaking Welsh history’, *Arcade*, December 1980. He was reviewing David Smith (Ed) *A People and a Proletariat: Essays in the History of Wales*, Pluto Press, 1980; and Hywel Francis and David Smith, *The Fed: A History of the South Wales Miners*, Lawrence and Wishart, 1980.

Above all, attitudes to the Welsh language palpably shifted. Welsh-medium education continued to flourish, especially in the anglicised areas of south-east Wales. A burst of energy surrounded a Welsh youth music culture, with the creation and impact of S4C (the Welsh television channel) in 1982 spreading its influence. The Welsh language came to be seen as a vehicle for modernity and renewal rather than being associated with the past, nonconformity, and decline.

## The 1990s

In his analysis of these years the political scientist Vernon Bogdanor remarked on the paradox that following the 1979 referendum defeat Labour's commitment to devolution intensified. As he said, far from destroying what seemed a merely tenuous political commitment, the defeat served to intensify it. The explanation, he concluded, was not hard to find:

Devolution had been pressed by its advocates as a means by which the distinctive voice of Scotland and Wales could be expressed through government. But it seemed unnecessary during the 1974-79 period because the voices of Scotland and Wales were already being heard by a government so dependent on Scotland and Wales for its majority. When, however, in 1979, 1983, 1987 and 1992 England voted for Conservatives, Scotland and Wales remained loyal to Labour.<sup>16</sup>

Bogdanor further remarks that previously in 20<sup>th</sup> Century Britain there had never been so prolonged a period of geographically one-sided government. However, the reaction was far more profound than merely an intensification of a commitment to devolution. Additionally, and crucially, there was a rejection of the political framework that allowed the one-sided government to occur. In Scotland, this was explicitly stated through the Claim of Right, produced by the Scottish Convention and signed by every Scottish Labour and Liberal Democrat MP in 1988. It declared sovereignty to lie with the Scottish people rather than the Westminster Parliament.

In Wales the expression came later, was more implicit but nonetheless had the same effect. The key figure was Ron Davies who became Shadow Secretary of State for Wales in 1992 and began a process of leading Welsh Labour towards a clear devolution commitment. He began with a series of radical speeches that sounded so nationalistic to many of his colleagues that he was accused of "going native". In an address to the 1994 UK Labour conference in Blackpool, for instance, he declared:

Like the Scots we are a nation. We have our own country. We have our own language, our own history, traditions, ethics, values and pride ... We now in Wales demand the right to decide through our own democratic institutions the procedures and the structures and the priorities of our own civic life.<sup>17</sup>

In the 1979 referendum Ron Davies had voted No. Why had he changed his position so radically? As he explained himself, it was the experience of living through successive defeats at the hands of the Conservatives through the 1980s. But the main point was that in Wales Labour had won. Ron Davies and many others in Labour in the late 1980s crossed a Rubicon when they began to reject the United Kingdom basis

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<sup>16</sup> Vernon Bogdanor, *Devolution in the United Kingdom*, Oxford University Press, 1999, pages 193-4.

<sup>17</sup> Quoted in John Osmond, *Welsh Europeans*, Seren, 1995, pages 79-80.

on which general elections are held. Instead they demanded a Welsh jurisdiction. This is how Ron Davies explained how he felt following the 1987 general election:

I vividly recall the anguish expressed by an eloquent graffiti artist who painted on a prominent bridge in my constituency, overnight after the 1987 defeat, the slogan 'We voted Labour, we got Thatcher!' I felt the future was bleak. Despite commanding just 29.5 per cent of the Welsh popular vote and majorities in only eight of the 38 Parliamentary constituencies, the Conservatives had won a third consecutive General Election. The Labour Party had performed well in Wales, achieving a 7.5 per cent swing compared with a 2.6 per cent swing in England, and gaining 15 per cent more of the share of the vote in Wales than in the United Kingdom as a whole. If the party had performed as well in England we would have been elected. For me, this represented a crisis of representation. Wales was being denied a voice.<sup>18</sup>

Once this 'crisis of representation' – as Ron Davies put it – was on the agenda, it was but a short step to start thinking about how a Welsh perspective could be mobilised and channelled. This was entirely new in Labour thinking in Wales.

The cross-party Campaign for a Welsh Assembly was re-launched in 1987, after lying moribund since 1979, and held meetings around the country. By the early 1990s devolution was creeping back on the agenda of Welsh Labour conferences. However, there was no mood in the party for the kind of cross-party collaboration that was taking place in Scotland, with the launch of the Scottish Constitutional Convention. I well remember a trade union representative on Labour's Welsh Executive remarking bitterly at the time about the decision of the Scottish Labour Party to collaborate in the Scottish Convention. "They've contracted out their policy," he told me.

It would take another referendum to open the door to this kind of cross-party discussion in Wales. During the early 1990s Ron Davies was a minority voice in the Welsh Labour Party arguing for greater collaboration and the building of the "internal political solidarity" that would be required before a constitutional advance could be achieved. In response to calls for a Welsh constitutional convention the Labour Party established its own Commission to explore its devolution policy in 1992. As Shadow Secretary of State Ron Davies had great difficulty in engaging with this Commission. This was how he described his problems in an interview some years later:

I started working with the Commission and it became clearer that what I had in mind about devolution was not what the Labour Party had in mind ... I had two issues: trying to win public support, and how to manage the Party. We talked to people on the industrial side, and in the quangos, and there was no conceptualising; there was no nation building; there was no desire to enter the debate at all. It was all: what's in it for us? How can we protect our position?

"So what do I do? It was really about trying to do some nation building, identifying the strengths of Wales, building up its own identity and that meant dealing with issues like the language, for example, like the culture, like having the strength to say that we wanted to develop our own tourism, our own industry, that we would have to look at issues about the environment, and we would have to look at it from a Welsh perspective. That was all for me part of

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<sup>18</sup> Ron Davies, *Devolution: A Process Not an Event*, The Gregynog Papers, Vol. 2 No 2, Institute of Welsh Affairs, February 1999, p. 4.

nation building ... The other signpost was: what are going to be the views of the other parties? The other parties, for me, were the critical issue.<sup>19</sup>

These references to 'nation building' and the need to take the views of other parties into account represented a profound shift in Welsh Labour thinking, albeit one that still had a long way to go to convince a majority in the party. However, Ron Davies was right to identify relations with other parties as a critical issue for the future of devolution. Indeed, cross-party collaboration in pursuit of a constitutional objective is a sure sign of Herman Dooyeweerd's "internal political solidarity".

In this particular context, Ron Davies saw a need for Labour to commit to proportional representation for electing an Assembly to get the Liberal Democrats and Plaid Cymru on board. However, this proved an impossible hurdle for Welsh Labour. It was a sticking point in Scotland as well, but eventually the Scottish Labour Party reached a deal on PR with the Liberal Democrats as part of the Convention process. In Wales, however, it took a referendum to force the issue.

In the Autumn of 1994 Ron Davies prepared a submission on behalf of Wales Labour MPs to the party's Policy Commission. This called for a 100 member Assembly elected by PR, with primary legislation and tax raising powers. It represented a maximalist position within Welsh Labour thinking and over the next year was considerably watered down. By the Autumn of 1995 the Welsh Labour Party voted in its conference for an Assembly with executive powers only, no tax raising powers, and crucially with its members elected by first past the post, with two members for each of the 40 parliamentary constituencies.

There is little doubt that if Labour had stuck with this policy the referendum that was held in 1999 would have been lost, since neither the Liberal Democrats nor Plaid Cymru could have been persuaded to support the package. However, the way the referendum came about enabled the policy to be changed.

In July 1996 Tony Blair visited Scotland. Still uncertain of his victory in the forthcoming general election, and exhibiting extreme caution over tax and spending commitments, Blair was determined to remove Labour's promise of tax varying powers for the proposed Scottish Parliament from the British election agenda. The mechanism was to be a referendum in which the people of Scotland would be asked two questions, one on whether they supported a Parliament and, crucially, a second on whether they agreed that it should have the power to vary income tax by 3p in the £ up or down.

By placing the tax decision directly in the hands of the Scottish people, the referendum would remove it from the immediate British general election debate. The commitment to a Scottish referendum was therefore driven entirely by the exigencies of Scottish politics and the impact it was feared they might have on Labour's electoral prospects in the United Kingdom as a whole. However, the most immediate effect was on Wales.

For it was soon appreciated that it would be impossible to have a referendum in Scotland without also having one in Wales as well. Tony Blair's referendum ploy had come out of the blue. The Shadow Secretary of State for Scotland, George Robertson, was informed shortly beforehand, but the Shadow Secretary of State for Wales, Ron Davies, was left in the dark. In fact, on the eve of the announcement he was taking

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<sup>19</sup> Ron Davies, interviewed in Stephen Prosser et. al., *'Making it Happen' in Public Service: Devolution in Wales as a Case Study*, Imprint Academic, 2006, pages 151-2.



part in a BBC Wales television programme on the forthcoming election and, under persistent questioning, insisted Labour had no plans for a referendum to endorse devolution.

Yet within days Ron Davies was locked in negotiations with Blair on the help he would need if he were to lead the Welsh Labour Party through the forthcoming general election and into a referendum. There was one pivotal requirement. Blair would have to lean on the party in Wales to reverse its conference decision a year before in favour of first past the post for a Welsh Assembly, and opt instead for some variation of proportional representation. Davies argued that without a commitment to PR it would be very difficult for Labour to win a referendum in Wales.

Ron Davies won his concession and went on to lead the Yes campaign to a wafer thin majority in the referendum that was held a little over a year later, in September 1997. There is little doubt, given the closeness of the result, that without the PR commitment the referendum would have been lost.

## **The 1997 referendum**

In 1997 the *Wales Says Yes* campaign was relatively well organised, certainly in comparison with the *Yes for Wales* campaign in 1979. The sight of Labour, Plaid Cymru and the Liberal Democrats acting in unison across much of Wales was undoubtedly influential and did much to promote a sense of consensus around the change. It also emphasised the fact that by 1997 Wales had experienced 18 years of Conservative government.

Successive Conservative administrations had intensified and dramatised what became known as the democratic deficit. As we have seen, the main influence had been to change the mood in the Labour Party, with mainstream Labour leaders beginning to acknowledge the nationality of Wales in political terms.

Underpinning these changes was a more fundamental, in many ways psychological, shift between generations that took place during the period. In 1979 society was still governed by a generation whose formative experience had been the Second World War, the fight against fascism, the creation of the Welfare State after 1945, and the consciousness and then loss of Empire. By 1997 this generation had largely passed on. In its place were 600,000 people who in 1979 had been too young to vote. For them the Second World War was as much history as the Napoleonic Wars. This new generation were no less Welsh than their forbears but they regarded their Welshness in a different light. For example, as far as they were concerned language disputes were a thing of the past. Giving Wales a political voice seemed a natural thing to do.

This shift in generations was arguably the single most important explanation for the four-to-one majority against the Assembly in 1979 being overturned into a narrow majority in 1997. Table 1 on the following page gives the results of a survey of 700 people throughout Wales within three weeks of the 1997 referendum. It demonstrates that age was a key factor in determining the way people had voted. In summary, those under 45 were likely to vote Yes by a margin of 3:2, while those over 45 were likely to vote No by a similar margin.

**Table 1: The Generation Divide and the 1997 Referendum Vote**

<b>Age</b>	<b>Yes</b>	<b>No</b>
18-24	57%	43%
25-34	60%	40%
35-44	59%	41%
45-54	42%	58%
55-64	49%	51%
65+	45%	55%

*Source: 1997 Welsh Referendum Survey, University of Wales, Aberystwyth.*

Equally as striking was the impact of the referendum itself on attitudes towards Wales's future constitutional relationship with the rest of the United Kingdom. In the years leading up to the referendum, polling (by BBC Wales and others) showed a consistent 40 per cent of the electorate that were against any change. The remaining 60 per cent were split between about 25 per cent that supported Labour's Assembly proposals, 25 per cent that favoured a Scottish-style Parliament, with the remaining 10 per cent or so opting for independence.

Following the 1997 referendum this pattern shifted fundamentally and has remained more or less constant ever since. Now fewer than 20 per cent are opposed to some degree of democratic self-government for Wales. About 25 per cent support the current Assembly. Around 12 per cent support independence. But approaching 40 per cent, depending on the fluctuating support for independence, now favour moving ahead to achieve a Scottish-style parliament. Table 2 shows how this new realignment solidified in the years immediately following 1997. The change occurred entirely as a consequence of the experience of living through the 1997 referendum, and was a powerful demonstration of the dynamic influence plebiscites can have.

**Table 2: Constitutional Preferences (%) Wales, 1997-2011**

<b>Constitutional Preference</b>	<b>1997</b>	<b>1999</b>	<b>2001</b>	<b>2003</b>	<b>2006</b>	<b>2007</b>	<b>2009</b>	<b>2011</b>
<b>Independence</b>	13.2	9.6	11.8	13.4	11.0	11.5	14.7	12.9
<b>Parliament</b>	<b>18.3</b>	<b>28.3</b>	<b>36.8</b>	<b>35.9</b>	<b>40.2</b>	<b>41.5</b>	<b>34.3</b>	<b>34.0</b>
<b>Assembly</b>	25.1	32.9	24.5	25.3	23.9	26.1	27.4	27.5
<b>No elected body</b>	<b>36.9</b>	<b>24.3</b>	<b>23.1</b>	<b>20.3</b>	<b>20.4</b>	<b>15.7</b>	<b>17.1</b>	<b>18.0</b>
<b>Don't Know</b>	6.5	5.0	3.7	5.2	4.6	5.3	6.4	7.6
<b>Number of respondents</b>	686	1,256	1,085	988	1,000	884	1,078	2,359

*Sources: 1997 Welsh Referendum Study; 1999 Welsh Election Study; 2001 Wales Life and Times Survey; 2003 Wales Life and Times Survey; 2006 Survey by NOP for the Electoral Commission; 2007 Welsh Election Study; 2009 YouGov poll for Aberystwyth and Cardiff Universities; 2011 Welsh Election Study.*

The extremely narrow result in the referendum was regarded by many in Westminster and Whitehall as indicating an under-whelming lack of enthusiasm for change in Wales. In fact, it represented a remarkable 30 per cent increase in votes for the Yes side, or a 15 per cent swing, compared with 1979. The more emphatic two-to-one majority in the Scottish referendum, held a week earlier, actually produced a smaller swing of 11.5 per cent. And as Vernon Bogdanor concluded:

The referendum was won through an alliance between Welsh-speaking Wales, the heartland of the north-west, and the industrial Wales of the valleys, the former coalfield areas. It seemed by comparison with the 1979 result, to show that Welsh identity was becoming less divisive and that a sense of Welshness was growing irrespective of language, a sense of Welshness which may be more deep-seated than social analysts have noted.<sup>20</sup>

## The 2011 referendum

Proportional representation ensured that the first elections to the Assembly in 1999 produced a minority Labour administration, one that within a year was forced to come to terms with coalition politics in the form of an alliance with the Liberal Democrats. Part of the coalition agreement between the parties, insisted on by the Liberal Democrats, was the establishment of a cross-party Commission to examine the powers and electoral arrangements of the Assembly. Under the chairmanship of Lord Richard this began work in September 2002 and duly reported in the Spring of 2004.

The creation and work of the Commission was a late Welsh substitute for the Constitutional Convention which had proved so influential in Scottish politics a decade earlier. It recommended that the Assembly should become a legislative Parliament along Scottish lines with a clear separation of powers between the executive and legislature. The membership should increase from 60 to 80, and be elected by the single transferable vote proportional system. Given the history of Welsh devolution going back nearly 50 years it was remarkable that such a consensus could be achieved. The unanimous recommendation in favour of greater powers was widely commented upon as reflecting a maturing of civic society. As the First Minister Rhodri Morgan, said at the time:

All of us involved in political life in Wales know just how contentious the remit provided to the Commission was capable of becoming.<sup>21</sup>

In itself, this was an indication of a maturing political culture. Not only that, the report was well put together, logical and closely argued. Despite this it was too big a pill to swallow for the anti-devolution forces that still held the upper hand within the Welsh Labour Party, including most of its Welsh MPs at Westminster. A special conference in September 2004 rejected the Richard proposals, and left it to the Secretary of State for Wales, Peter Hain, to come up with some compromise solution. This eventually surfaced in for the form of the 2006 Wales Act. The only specific Richard recommendation this accepted was the separation of powers between the Assembly itself and the Welsh Government which, de facto, was happening already.

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<sup>20</sup> Vernon Bogdanor, *op.cit.* page 200.

<sup>21</sup> *Assembly Record*, 31 March 2004.

However, Hain came up with a two-pronged initiative which opened the door towards greater legislative powers for the Assembly. Under the 2006 Act the Assembly could seek a Legislative Competence Order from Westminster to pass laws on specifically defined policy areas. The Act also allowed for the Assembly to gain more autonomous law-making powers following a referendum, which in order to be held would need the approval of a two-thirds majority in the National Assembly. Such a majority (in fact, unanimous) was achieved in early 2010 and the referendum was held on 3 March 2011.

The result was an emphatic two to one majority Yes vote, with 63.5 per cent voting Yes and 36.5 per cent No. This reflected the ‘settled will’ in favour of more powers that had been revealed to pollsters in the years following the 1997 referendum, shown in the constitutional preferences table on page 12. The turn-out, at 35.6 per cent, was relatively low but polling at the time indicated that a higher turn-out would have produced much the same result, and probably an increase for the Yes side.

In striking contrast to the 1997 referendum, all the parties in the Assembly were now united in campaigning for a Yes vote. In particular, the Conservative leader Nick Bourne, who had led the No campaign in 1997, now lined up with the Labour Plaid Cymru and Liberal Democrat leaders in the Assembly in declaring that full legislative powers were necessary to give the Assembly the tools it needed to carry out its work.

Meanwhile, the so-called ‘True Wales’ No campaign, based in Newbridge in Caerphilly, was a tiny grouping that could not even afford to register with the Electoral Commission as a lead campaigning group. Following the campaign the Commission revealed that the registered Yes campaigns had between them raised a little over £140,000. However, the registered No campaigns raised less than £4,000.

Most importantly, compared with 1997, the campaign showed that Wales was no longer sharply divided over devolution. As the map on the following page shows, all the counties voted Yes, bar Monmouthshire, and even there only a few hundred votes separated the two sides. There was a margin of greater than 60 per cent in all the Yes voting counties of 1997, now joined by the counties in north-east Wales and Cardiff. Indeed, the latter recorded the highest vote swings compared with 1997. All the statistics pointed to a much greater homogeneity of view across Wales compared with 1997. For instance, in 2011 the gap between the highest and lowest counties voting Yes was 26.6 per cent, compared with 34.5 per cent in 1997. The eight highest swings to the Yes side in 2011 were all in counties that had voted No in 1997.

**Table 3: Constitutional preferences of those voting Yes in referendum**

<b>Constitutional Preference</b>	<b>% of those voting Yes</b>
No devolution	3.0
Assembly with fewer powers	0.4
Leave things as now	12.7
<b>Assembly with more powers</b>	<b>64.6</b>
Independent Wales	14.6
Don't know	4.8

*Source: Yougov poll for Wales Governance Centre and Institute of Welsh Politics, March 2011.*

Significantly, too, extensive polling shortly after the referendum vote showed that a large majority of people who voted Yes, 75 per cent, either wanted even more powers or independence for Wales, as shown in Table 3. Other polling, shown in Table 4, revealed that majorities now support devolving criminal justice and tax varying powers to Wales.

**Table 4: Attitudes to more powers for the Assembly**

	<b>Yes</b>	<b>No</b>	<b>Don't know</b>
<b>Police and criminal justice</b>	56.2%	30.9%	17.3%
<b>Raising and lowering taxes</b>	54.1%	34%	11.9%

*Source: The poll of 1,005 telephone interviewees, was carried by rmgclarity for the Western Mail between 2-5 April 2011.*

More generally, the clear and emphatic nature of the result, together with the National Assembly becoming a fully-fledged legislative body, will have far reaching consequences for the development of Welsh institutions, for the future of Welsh politics, and for the wider constitutional development of the UK. An immediate consequence has been to add new weight to the arguments for a separate Welsh legal jurisdiction, to mirror those already existing in Northern Ireland and Scotland. This would mean Wales gaining its own Lord Chief Justice, High Court, and Court of Appeal. As early as 2007 the present First Minister Carwyn Jones drew attention to the potential anomaly of a fully legislative Assembly operating alongside the Westminster Parliament within a single jurisdiction. As he put it:

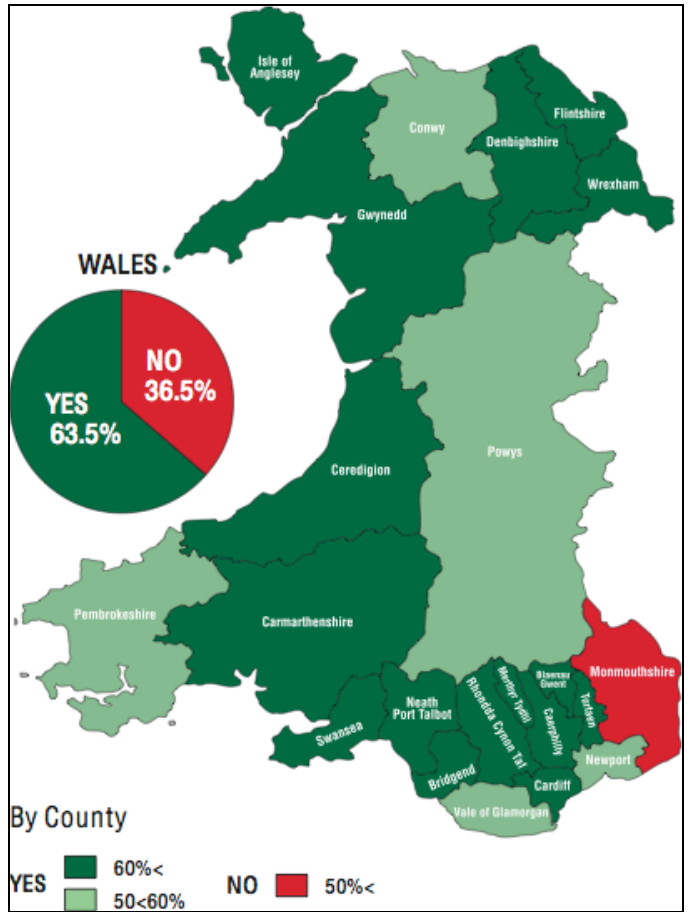
If you've got two parliaments that have primary powers, I think it makes it very difficult to have one jurisdiction. I'm not aware of anywhere in the world where you have that.<sup>22</sup>

In June 2011 Professor R. Gwynedd Parry, director of Swansea University's Hywel Dda Institute for Legal Research declared:

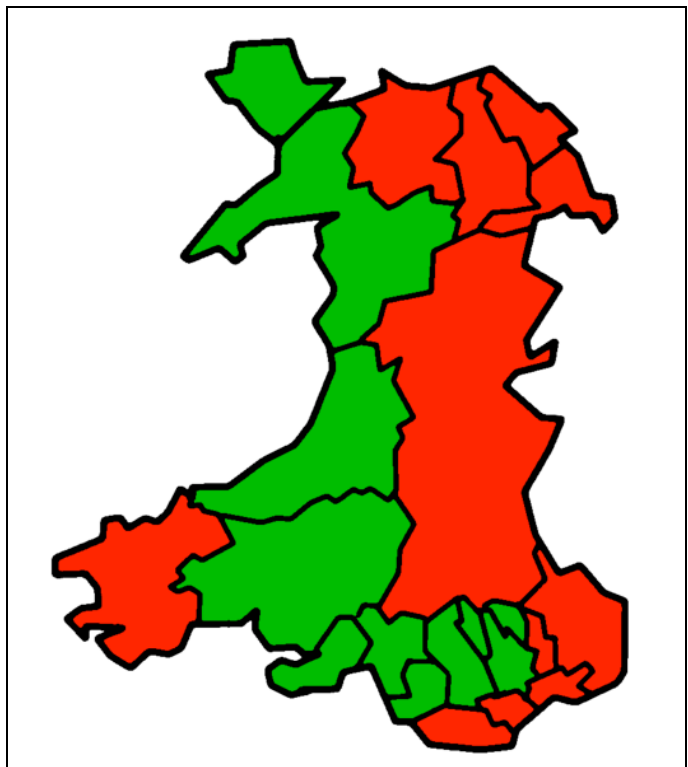
The referendum in March in which the people of Wales called for greater law-making powers was a significant step. Yet at the moment Wales is the odd man out with Northern Ireland, Scotland and the Isle of Man having their own legal system. Why should Wales be treated differently? At the moment laws created in Wales could be declared illegal by higher courts in England. What we don't want is laws made in Wales being scrutinised by the courts in London. That undermines the purpose of devolution. The absence of a Welsh jurisdiction therefore makes the current constitutional settlement incomplete.<sup>23</sup>

<sup>22</sup> Western Mail, 14 September 2007.

<sup>23</sup> Western Mail, 22 June, 2011.



Map 1: 2011 referendum (courtesy of the 2011 Wales Yearbook)



Map 2: 1997 referendum Yes (green) and No (red) counties

Broader political implications could flow from the Yes vote as well. Writing in the IWA's journal *Agenda* in the aftermath of the referendum, Professor Richard Wyn Jones, Director of the Wales Governance Centre at Cardiff University, drew attention to five ways in which the result will have major consequences:

1. It demonstrates a 'settled will' by the Welsh electorate. The legitimacy not provided by the 1997 result is now bestowed on the National Assembly, enhancing the self-confidence of those working in it.
2. Coupled with the reduction in Welsh MPs at Westminster – down by a quarter to just 30 at the next election in 2015 – the emergence of the Assembly as a legislative parliament means that it is now, without doubt, the main forum for Welsh democratic debate. Welsh political horizons have moved irrevocably to Cardiff.
3. The transfer of extensive legislative powers to the Assembly across a raft of domestic policy areas means that the 'West Lothian Question' – the problem arising because English MPs cannot vote on Welsh domestic matters, while Welsh MPs continue to vote on English matters - will now apply in its full effect in Wales. It is highly unlikely that a Welsh MP will ever again hold a ministerial role in one of the major UK government departments whose responsibilities have been devolved, let alone become Prime Minister of Britain. Not only will there be fewer MPs but their role and status will also be diminished.
4. The result changes the relationship between Wales and the UK state and, indeed, the nature of the State. Since the Acts of Union of the 16<sup>th</sup> Century Wales has been an integral part of the core of the State. Henceforth, however, Wales' relationship with the rest of the UK is destined to be inter-governmental in character.
5. The Yes vote will now trigger a Welsh 'Calman' process with the creation of a Commission to re-examine how the Assembly is working – in fiscal and political terms. This signals a return to the Richard Commission agenda.<sup>24</sup>

On the last point, establishment of a Commission was confirmed by Prime Minister David Cameron when he addressed the National Assembly in mid-July, although he was vague on its remit and timing. A few days later, however, all the party leaders joined in signing a letter to the Secretary of State for Wales, Cheryl Gillan, demanding that the Commission have a wider remit than purely finance. The terms of reference they suggested, shown in the panel below, was closely followed by the Secretary of State in an announcement the following week.

This was yet another example of "internal political solidarity", of consensus working across the Welsh parties where constitutional advance was concerned. It demonstrated that when the party leaders in the Assembly acted in unison they could get their way with the London government.

Both Labour and Conservatives made concessions in the statement. First Minister Carwyn Jones accepted that fiscal devolution meant that the National Assembly must have a tax varying role if it is to financially accountable. This is how Cheryl Gillan put it:

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<sup>24</sup> Richard Wyn Jones, *Nation takes another historic step*, IWA Agenda, Spring 2011.

**Terms of Reference for the new Welsh Fiscal and Constitutional Commission proposed by the four party leaders in the Assembly on 21 July 2011**

The Commission is asked to undertake its work in two parts. In the **first part**, the Commission should consider options for **fiscal devolution**, taking into account the work already done by the Holtham Commission. This work would include identifying the practical and legal issues to be resolved before any agreed proposals could be implemented.

The Commission should commence its work in **September 2011** and report, with recommendations, no later than **September 2012**.

Secondly, and after **Part One** of the Commission has reported, **Part Two** of the Commission should look at the current **constitutional settlement** in the light of experience and recommend changes that would enable the National Assembly for Wales, and Welsh Government, to better serve the people of Wales.

The Commission is asked to report on this aspect of its remit, with recommendations as it considers appropriate, **by March 2013**.

The Commission should aim to reflect a consensual view. The Chair should have the confidence of the main Welsh political parties and both the Welsh and UK Governments.

*Note: The signatories to the letter that accompanied this statement were Labour's First Minister Carwyn Jones, Plaid Cymru's leader Ieuan Wyn Jones, the Liberal Democrat leader Kirsty Williams, and the Conservatives' Paul Davies who at the time was still standing as leader prior to the election of Andrew R.T. Davies.*

It is only right that the Welsh Government is accountable for the money it spends. We are only at the beginning of the process, but I believe that by working together across parties, between governments and institutions, we can reach agreement that will deliver fiscal accountability to the Assembly.<sup>25</sup>

For their part the Conservative-led coalition in London accepted that fairer funding, which meant reform of the Barnett formula so that it reflects need rather than a crude population count, had to be on the table as well.

Both Labour and the Conservatives ceded to demands from Plaid Cymru and the Liberal Democrats that, over and above this, the whole constitutional settlement had to be reviewed. This means returning to the 2004 Richard Commission, signed off by all four parties at the time. This said that as well as full legislative powers:

1. Wales should follow the Scottish model in which all powers are devolved except those explicitly reserved to Westminster – rather than the present arrangement in which nothing is devolved except those specifically conferred, which constrains the Welsh Government's scope for legislating effectively.
2. The National Assembly's membership should be expanded from 60 to 80 and all should be elected by the STV system of proportional representation.

The first opens up devolving criminal justice powers and creating a distinctive legal jurisdiction for Wales. The second holds out the prospect for a completely different

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<sup>25</sup> Western Mail, 15 July 2011.



political dynamic in Welsh politics and new relationships between the parties. Both will be regarded as opening a Pandora's box by many in the Labour and Conservative parties. But as Ron Davies famously put it at the start of the devolution process in 1999:

“Let no-one think that now the devolution genie is out of his bottle he can be forced back in or that he won't want to stretch his muscles.”<sup>26</sup>

## The devolution journey

Constitutional referendums represent a convulsion in a political system. If politics more generally represent 'jaw jaw' in preference to 'war war', then constitutional referendums represent a civil war conducted by other, more civilised means. Whatever their results, their impact is to speed up the political process.

Their announcement, usually about a year before the event, immediately launches the political system into a new gear, with the creation of new formations, often with a cross-party character needed to fight the campaigns, bringing a heightened engagement in politics.

Cross-party campaigns also promote Herman Dooyeweerd's "internal political solidarity". They send a message that the parties involved are setting aside their own particular priorities in the interests of the nation as a whole. This was most clearly seen in the 2011 referendum in Wales when first, the Assembly voted unanimously for a referendum, and then the leaders of all four parties joined together in campaigning for a Yes vote

Living through the referendums of the past thirty years has certainly hastened the maturing of politics in Wales. They have resulted in an historical acceleration in the development of the country's constitution. During referendum campaigns the political system is pulled backwards and forwards in polarising debates. In the Welsh experience referendums can be likened to an athlete preparing to throw a discus, leaping from one foot to another, gathering momentum to hurl the object as far as possible.

Where will the devolution journey take us? There can be no definitive answer to that question. Don, now Lord Anderson, the former Labour MP for Swansea East and a late convert to devolution, once described it as a mystery tour:

I recall the fine story of a bus tour from Cwmrhydyceirw in my constituency. There was a sweep about where the tour would end, and it is said the driver won. The people of Wales are driving this mystery tour. They will decide the pace and direction.<sup>27</sup>

Although the destination of Welsh devolution remains uncertain, more than a decade into the experiment two things are clear. The pace is accelerating and the direction is in favour of more powers.

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<sup>26</sup> Ron Davies, *Devolution - A Process Not an Event*, IWA, 1999, page 9.

<sup>27</sup> House of Commons debates (Hansard), vol. 924, col. 458, 25 July 1997.