

Why has devolution caught fire in Scotland but only smouldered in Wales?

Two similar countries but two apparently very different responses to the devolution process set in train with the establishment of the Scottish Parliament and Welsh Assembly 16 years ago in 1999. In the one a momentum that could lead to independence, in the other a cautious step-by-step acceptance of the new institution and a reluctance to move too quickly to the assumption of new powers. On the surface it might seem puzzling, yet Wales has come further than people realise in that period. Moreover, there is a debate going on in Wales on wider constitutional matters that is rarely heard in England. Yet, the issues are of importance to the whole of the UK.

National feeling has been strong in both Wales and Scotland for a very long time but “nationalism” – which, of course, I do not want to equate directly with devolution – has arguably been a stronger force in Wales over much of the past 150 years than in Scotland. Indeed, in some respects and at times Welsh nationalism has had similarities with Irish nationalism, though it has never been as violent. This is perhaps because the British Empire – the historical project which helped to unite our four nations for the 200 years or so until the post WW2 period – was always much more an Anglo-Scottish creation, delivering more to those two nations and attracting greater participation from their citizens than from Ireland and Wales, even though both those latter countries also enjoyed its benefits.

A minority in Wales, however, has always wanted the country to stand apart. There was a vigorous Home Rule movement in Wales – taking its cue from that in Ireland - at the end of the 19th century, with Lloyd George, among its leaders. It is often forgotten now that this is how he sprang to prominence.

And, just as in Ireland a difference of religion produced a sense of detachment from the broader state's aims and objectives, so, too, in Wales a separate language – spoken in the late 19th century by half Wales's inhabitants and subject, like Roman Catholicism, to discrimination – cultivated a sense of distinctiveness. National sentiment, already spreading across much of Europe, grew under these influences in Wales resulting in the late 19th century in a period of institution-building – from national university, library and museum to international football and rugby status. The Home Rule impetus of the previous decades petered out, however, in the years leading up to and including WW1. In Wales its most tangible legacy was not independence and civil war, as in Ireland, or even what we would now call devolution, but the still quite important (for Welsh people) disestablishment of the Anglican Church in 1920.

Nevertheless, nationalism in Wales did not die and Plaid Cymru was actually founded - in 1925 - nine years earlier than the Scottish National Party in 1934. It also elected the first Nationalist MP since the Irish Nationalists – Gwynfor Evans in 1966, one year ahead of the SNP's Winnie Ewing in 1967. There was also a long-running, if generally low-key, campaign of violence in support of broadly nationalist

objectives in Wales across several decades. In the 1930s three leading figures in Plaid Cymru – all of them academic, and including its founder– were tried and jailed for blowing up an RAF bombing school being established in the deepest of Non-Conformist, pacifist, Welsh-language strongholds, the Llŷn peninsula. They were all gaoled, including Saunders Lewis, one of the founders of Plaid Cymru, and a leading Welsh scholar and playwright. (By contrast the theft of the Stone of Scone in 1950 from Westminster Abbey seems a little tame.)

The 1960s and 1970s were characterised by a recurrence of direct action. Bombs damaged public buildings such as tax and other Government offices in Cardiff and elsewhere, and targeted reservoir pipelines carrying water to Liverpool and Birmingham, the former city being seen as having acted in a colonial, undemocratic way in expropriating Welsh land to collect water for its citizens, even though its Parliamentary Act was opposed by every single Welsh MP bar one – and he abstained. The 60th anniversary of this event has been commemorated this month in Wales with rallies, newspaper and broadcast stories. Indeed, in nationalist circles the outrage it generated is credited with setting Wales on the road to devolution some 40 years later.

Long before Johnny Rotten and the Sex Pistols outraged public decency with his famous anti-royal version of God Save the Queen, the Royal Family was being mocked in Welsh pop songs, notably in the run-up to the 1969 investiture of Prince Charles, as Prince of Wales. Bombs went off before the ceremony, and there were casualties including one

death, causing considerable anxiety on the part of the authorities, concerned as to the safety of the Royal Family on the day.

For a prolonged period, too, from the 1960s through to the 1980s the second homes of English people who had bought country cottages in Wales were being attacked and in some cases burnt down by the Meibion Glyndwr (Sons of Glyndwr) movement. Much of this – like the daubing of monolingual English road signs and protests against the lack of official status in public life and the legal system for Welsh – was, of course, language-oriented rather than directly political. Language protest and nationalist sentiment at this time did, however, share common boundaries and supporters.

So, why has Scotland leapfrogged Wales in pressing its demands? Why has the core independence vote in Wales never moved outside the 10-15 per cent range whereas in Scotland at the referendum last year it was up to 45 per cent? To some extent the language concessions that followed the earlier protests – which included a threat of a hunger strike to death by Gwynfor Evans leader of Plaid Cymru, if the Thatcher Government elected in 1979 reneged as it intended on a pre-election pledge to set up a Welsh language television channel – have taken the sting out of more extreme nationalist sentiment. And, could it be the Welsh are relatively happy with the degree of devolution and the incremental improvements in the settlement that have been achieved since 1999?

It is probably a bit more complicated. Scotland is a very different country from Wales with a different history. In recent times it has had the benefit of oil revenues that it could claim as its own, giving it a degree of assurance that if it did become independent it would not find itself significantly poorer and could perhaps even be better off. It goes back further, however, than the perhaps artificial boost to confidence that being an oil producer has given. It had its own separate monarchs for 350 years longer than Wales and retained institutions dating back in time, such as its legal and educational systems. It has memories of its important role in the European Renaissance and of diplomatic relations with other states.

Wales was, by contrast, united with England by force, firstly by Edward I and then under the Acts of Union of the 1530s under Henry VIII. I think this has left Welsh people instinctively less confident and more embattled in their mentality. The country has wrestled for many years with adaptation away from basic industries, giving Welsh people much less confidence that they could afford to contemplate ending their financial link with the British purse without the comfort of oil revenues, and thus much less willing to contemplate political independence

Thus, in the first devolution in 1979 towards the end of the Callaghan Government, only 20 per cent of those who voted said yes to the limited devolution on offer, despite promising opinion polls for several years previously. In Scotland there was a majority but because it did not reach the 40 per cent of

the electorate threshold set by the Bill, the devolution mechanism was not implemented.

The opposition in Wales in 1979 was led by Neil Kinnock and the backbench MP, Leo Abse, inheritors of the Labour Party's tradition of internationalism, espoused earlier among others by Aneurin Bevan. This scorned support for national causes in Wales as parochial, insisting efforts to improve the lot of the working man and woman everywhere should have priority. The No campaign, which also enjoyed strong support from the south Wales press, raised fears that Wales could not afford devolution, that any settlement would profit Welsh-speakers at the expense of monoglots, and that Wales was divided anyway between north and south and that the latter would stand to gain most.

Yet, within a few years the devolution campaign was up and running again and enjoying much wider support. The galvanising factor was the assumption of office by Margaret Thatcher and the subsequent miners' strike and pit closures. Heavy rounds of steel redundancies also affected Wales in the 1980s. This led to a change of view on the part of many of the more influential members of the Labour Party who concluded Wales might just as well have more control over its own economic and social affairs, if the alternative was Conservative Government in Britain. (Labour has won 21 elections in a row in Wales!) A new solidarity across Wales also emerged from the strike, rendering arguments about a north-south divide less cogent. Changing attitudes were reflected in the media, too, with the national newspaper, the *Western Mail*, previously an opponent of devolution,

changing sides and the television media becoming interested in Welsh identity issues and putting on programmes that reflected this.

Large parts of the perennially dominant Labour party were, however, still unenthusiastic and reluctant to the end to join with other groups to campaign for a Welsh Assembly, making it always likely the vote in Wales would be close. The Scots, by contrast, had been much more united in wanting greater powers. Following the failure of the 1979 referendum prominent individuals north of the border from across a wide spectrum resumed the campaign with the publication of a Claim of Right, a device from the 14th century Declaration of Arbroath, declaring that Scottish people had the right to choose their own form of government.

This evolved into the Scottish Constitutional Convention, which brought together Labour, Liberal Democrats, Greens, Communists, the Scottish Council for Development and Industry, the Small Business Federation, the Church of Scotland, the Roman Catholic Church, and, initially, the SNP, to draw up a blueprint that eventually became the basis for the eventual Scottish Parliament. (The SNP later withdrew when the Convention declined to feature full independence as one of the options.)

In Wales there was no similar organisation working well ahead and bringing all parties together, and Labour largely left it to Plaid Cymru and the Lib Dems to get the vote out on referendum day in 1997. Significantly, the prospect of a referendum had not been welcomed by the pro-camp in

Wales, knowing how easily the public could be influenced by scare stories. The initial intention merely to legislate without a public vote being was dropped because the Prime Minister, Tony Blair, was fearful that the proposal to give Scotland tax-raising powers would affect the UK's budgetary balances. He insisted that a vote on tax raising powers be included on the referendum paper in Scotland alongside the basic devolutionary proposal. So, by default, if Scotland had a referendum, Wales would have to have one, too. These factors combined to result in a decision by the narrowest of margins in favour of devolution. In 1999 the Queen opened the new Assembly.

So, what did Wales inherit? The Government's nervousness about granting devolution in any form in Wales – and there were still strong opponents in Labour, particularly among MPs who feared they would be marginalised by any new institution and that their numbers would be reduced – led the Labour government of the day to give Wales a decidedly inferior new constitutional arrangement, and this explains many of the subsequent problems. The model in Scotland was reserved powers – everything devolved except those powers retained in Westminster. Wales only received devolved powers, with all other powers retained at Westminster. So, in the one case, everything devolved except what is retained, in the other everything retained except what is devolved.

Secondly, the Assembly was set up as a corporate body without separation between the executive and members, a largely unworkable arrangement designed to prevent a body

that might call itself the Government of Wales from emerging. Instead of a Cabinet Government drawing up policies, these were expected to emerge organically from groups within the chamber. (Needless to say the Assembly soon converted itself into a de facto Parliamentary structure with a Cabinet and an Opposition.)

Thirdly, devolution in Wales has been crippled by having a chamber of only 60 members, one of the smallest democratic chambers anywhere in the world, and a real constraint on proper scrutiny, given that a large proportion of the members will be ministers or their shadows.

Perhaps most importantly, under the original Act the Assembly could not make law and to all intents and purposes existed primarily to decide on how monies voted by Westminster as part of the Welsh block grant should be spent, with discretion to switch spending between priorities and to differ from England. As hitherto, new Welsh law could only be created at Westminster at the instigation of the UK Government in accordance with its own priorities or in response to lobbying by the Assembly or other outside interests.

These deficiencies in the architecture of the new structure have resulted in much of the past 16 years being taken up in discussions on process rather than policy, and the impact the Assembly might make has as a result been hindered. So, within three years of its establishment the Assembly had asked Labour grandee, Lord (Ivor) Richard, to examine the powers and electoral arrangements of the National Assembly

and the way Wales was to be governed. His commission reported two years later in 2004 called for an 80 member Assembly and law-making powers but stopped short of suggesting tax-raising powers, as some had requested.

Even Richard's widely accepted recommendations were to prove too much, however, for Westminster. Instead, Peter Hain, the then Welsh Secretary – and, incidentally, one of the heroes of devolution - brought in a new Government of Wales Act in 2006 which was intended to offer a half-way house towards legislative powers. Under Section 3 of this Act the Assembly could pass “measures” on specific “matters” within 20 designated “fields” where it had been given competence. Additional legislative powers could be obtained through legislative competence requests, but these were subject to the veto of the Secretary of State for Wales, the House of Commons or House of Lords. To pass into law measures requested by the Assembly had to be tacked on to another Bill on a related issue passing through Parliament, or Westminster could itself hand over new powers by making it a clause within a new Bill.

Because of its cumbersome nature and the difficulties of securing time within the congested Parliamentary timetable, this arrangement predictably failed to work well but there was another provision in the Government of Wales Act 2006 – Section 4 – which allowed the Assembly to acquire full law-making powers if endorsed in – yes – another referendum.

The response was another Commission, this time led by the former diplomat, Sir Emyr Jones-Parry, set up by the Labour-

Plaid Cymru coalition elected in 2007. This was tasked with reviewing Wales's constitutional arrangements and spearheading the campaign to increase the powers of the Assembly to a full legislative Parliament similar to that in Scotland. A key part of its remit was to gauge the Welsh public's enthusiasm for such a move, and in doing so another lobbying body Cymru Yfory – Wales Tomorrow, this time led by the Archbishop of Wales, Dr Barry Morgan, strove to keep the Jones-Parry commission's feet to the fire.

This referendum held in 2011 did indeed endorse law-making powers and by the biggest pro-devolution majority yet in Wales – 64 per cent to 36 per cent, with all authority areas voting Yes with the exception of Monmouthshire, where there was a virtual dead heat. The Assembly can now legislate without having to consult the UK Parliament or the Secretary of State for Wales in the 20 areas that are devolved. A remarkable result given what some might consider the mental cruelty imposed on the Welsh people with all these Commissions of inquiry and referenda. Yet another commission, headed by economist, Gerald Holtham, looked into the financial aspects of devolution, reporting in 2010.

Issues between Wales and Westminster were still hardly settled. The UK Government referred the first Welsh Act under the new arrangements to the Supreme Court, claiming the Cardiff Assembly had acted ultra vires – and lost. Two other Acts were also nearly referred but the Westminster Government backed down.

You can, therefore, probably guess what happened next – another commission this time under Paul Silk, a former House of Commons clerk, charged with reviewing the case for the devolution of fiscal powers and the means for improving the financial accountability of the Assembly. Reporting in 2013 and 2014, it recommended powers to raise around 25 per cent of the Welsh budget, and the devolution of responsibility for a number of powers including water, broadcasting, transport regulation, criminal justice, policing, youth justice, and medium scale energy projects. It also recommended a reserved powers model and an increase to at least 80 members.

In its response the Government promised in this year's Queen's Speech a Bill offering Wales the following powers.

- Decisions over energy projects generating up to 350 megawatts of power on or offshore larger projects to remain the responsibility of the UK government
- Transport - responsibility for ports, taxi regulation, registration of bus services and speed limits
- Fracking - licensing for all onshore oil and gas exploration in Wales, including shale oil and gas
- Elections - whether 16 and 17-year-olds should vote in assembly and local council elections
- Assembly affairs - control over its name, size and the system used to elect its members
- Permanence of the assembly and the Welsh government to be enshrined in law
- Reserved powers model outlining the list of policies that remain under UK government control, with all other matters considered devolved.

Most of these provisions have now been included in a draft Wales Bill published on October 20th 2015, which is now out for consultation until the final Bill is brought forward in February 2016

So, the direction of travel within Wales has clearly been in favour of devolution and of increased powers, despite the obstacles. Polling suggests no more than 20 per cent now say they would abolish the Assembly, (the exact opposite of the 1979 referendum vote when an 80 per cent No vote was recorded,) 10 per cent wanting independence and the remaining 70 per cent generally in favour of the status quo or wanting a law-making Parliament like that in Scotland.

What has been ushered in during the sixteen years has been a second great phase of institution-building, a kind of Welsh Renaissance. The Wales Millennium Centre has given Wales a performance space that is a source of pride to all Wales as is one of its main tenants, Welsh National Opera; the National Museum has been transformed to give it a much bigger role as a centre for great art and host to a major international art event, Artes Mundi; and across the public and voluntary sector, and to a lesser extent the commercial sector, too, organisations have reshaped their Welsh activities to relate to the new political and administrative structures. In many cases, these had previously simply added areas of Wales to their nearest operations to the east in England. A notable example of the change has been the creation for the first time of an all-Wales rail franchise which has made it possible to develop a wider range of services connecting different parts of Wales. Previously, Welsh operations had been run

out of Stoke-on-Trent with a different and less sympathetic set of priorities.

These developments have received little coverage in the British media, however, and there is little, too, on the new powers Scotland will be given in its new devolution legislation. In Wales a debate has been taking place over the future of the Union but that, too, has not been replicated elsewhere. In responding to Scotland's Joan of Arc, Nicola Sturgeon, we have a bidding war taking place with offers being tossed out, rejected, improved and offered again without any attempt at a wider consideration of what might be in the best interests of Britain as a whole – the prerequisite I would have thought for maintaining the Union, if that is what the people of England, Wales, Scotland and Northern Ireland want.

We already have what might be described as asymmetrical devolution in Britain – different systems in Wales, Northern Ireland, Scotland and England - to which we are now adding health service and other expenditure devolution to Manchester, special funding to other big cities, including even to Cardiff and Glasgow in the devolved territories, all on top of a local government structure which varies from place to place, single tier here and two tier there. We now have, too, the prospect of a divided Commons where only English MPs will vote on certain matters.

Should we perhaps at long last be moving to a federal constitution such as serves Germany, Canada, Australia and other countries well – a proposal that has been around since

the debates on Irish Home Rule starting in the 19th century?
This is the suggestion made by David Melding, the deputy
counsel-general of the Welsh Assembly in an important book,
The Reformed Union: Britain as a Federation.

At the very least it needs a debate not driven by
considerations of party political advantage in which all the
peoples of the United Kingdom join in. Otherwise we risk
drifting into another set of ad hoc solutions to the national
aspirations of Wales, Scotland, Northern Ireland, and, indeed,
England, that will prove no longer-lasting than the
settlements of 1999 and their subsequent revisions.

*These observations were first delivered as a speech to the
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