



Sefydliad Materion Cymreig  
Institute of Welsh Affairs

**DEVOLUTION RELAUNCHED**  
**Monitoring the National Assembly**  
**December 1999 to March 2000**

**Edited By**  
**John Osmond**

**March 2000**

## CONTENTS

<b>1. THE VOTE OF NO CONFIDENCE.....</b>	<b>1</b>
<b>2. THE NEW ADMINISTRATION AND ITS POLICY AGENDA .....</b>	<b>13</b>
<b>3. OFFICE OF THE PRESIDING OFFICER.....</b>	<b>20</b>
<b>4. POLICY DEVELOPMENTS.....</b>	<b>27</b>
<b>5. ASSEMBLY SUBORDINATE LEGISLATION.....</b>	<b>33</b>
<b>6. RELATIONS WITH WESTMINSTER AND WHITEHALL .....</b>	<b>36</b>
<b>7. RELATIONS WITH THE EUROPEAN UNION .....</b>	<b>41</b>
<b>8. RELATIONS WITH LOCAL GOVERNMENT .....</b>	<b>43</b>
<b>9. RELATIONS WITH THE BUSINESS COMMUNITY .....</b>	<b>45</b>
<b>10. THE POLITICAL PARTIES.....</b>	<b>46</b>
<b>11. PUBLIC ATTITUDES .....</b>	<b>48</b>
<b>12. PRESS AND MEDIA.....</b>	<b>55</b>
<b>APPENDIX I.....</b>	<b>58</b>
<b>APPENDIX II.....</b>	<b>62</b>
<b>APPENDIX III .....</b>	<b>66</b>

## 1. THE VOTE OF NO CONFIDENCE

“This is the first day of devolution,” pronounced the National Assembly’s Presiding Office, Lord Dafydd Elis Thomas, following the vote of no confidence in First Secretary Alun Michael on 9 February. “This is real devolution. The National Assembly said we don’t want this style of politics, we don’t want these particular things, and we express these views. This was the majority view of the Assembly. This is real democracy” (*Western Mail*, 10 February 2000).

It was a remarkable statement, not just because it registered a significant moment in the history of Wales, but because it was the Assembly’s Presiding Officer who made the judgement. Not without some controversy, as we shall see later, it reflected a new political profile that was being attached to his Office, a profile established against the Executive and in favour of the Assembly as a whole. Not only that, it reflected an important questioning of the role of the civil service. There had been tension in relations between the Executive and the Office of the Presiding Officer, and the civil service had been caught in-between. In an important sense February 2000 marked the moment when the old Welsh Office régime was fundamentally challenged for the first time. A new form of accountability and a different political culture was being put in place.

The motion of no confidence was passed by 31 votes to 27 with one Labour abstention. The Presiding Officer insisted it was carried through despite an attempt by the First Secretary Alun Michael to forestall it by handing in his resignation moments before it was due to be taken. A short while later, and in the absence of Alun Michael, the Cabinet unanimously voted in Rhodri Morgan as their chairman and acting First Secretary. If the no confidence vote had not been taken there might have been a possibility for a caretaker figure, such as Business Manager Andrew Davies, to have emerged instead as Cabinet chairman. This would have left an opening for Alun Michael to be re-nominated by the Labour Group for the post of First Secretary.

As it was, however, this course was now unavailable. Plaid Cymru had indicated that if Alun Michael attempted to present himself again following a no confidence vote - as he had said he would just a few days earlier -- then they would resort to a further constitutional device. This would be to vote to revoke the Assembly’s delegation of its functions to the First Secretary and onwards to his Cabinet, and to delegate them directly to officials. In that eventuality it is not clear where final administrative responsibility for the Assembly’s functions would have rested. Rhodri Morgan’s view was that they would have become the property of the civil service which, as he said, was “hardly the purpose of devolution” (*Variable Geometry UK*, address to the Institute of Welsh Affairs and Welsh Centre for International Affairs, 14 February). In the speech Morgan colourfully described the Plaid Cymru threat as being the equivalent of a Nagasaki following the pressing of the Hiroshima political nuclear button.

The melodrama surrounding the resignation of Michael and the succession of Rhodri Morgan as First Secretary was quickly recognised as a defining moment in Welsh politics. Certainly it was, as Lord Elis Thomas so quickly affirmed, an exercise in democracy. But more fundamentally perhaps, it registered a shift in the underlying political culture of Wales. A threshold was crossed. This was not just in terms of

opposition against what was seen as imposition of London rule; the vote marked a significant change inside Welsh politics as well. The internal change was most clearly exposed within the Labour Group in the Assembly. In the last resort Alun Michael's position became unsustainable because he lost the confidence of a large majority of his own side.

In short, there was a division within the Labour Group. How this was experienced and how the aftershock will reverberate through Welsh politics in the period leading to the next Assembly election, in May 2003, is likely to determine the course of devolution itself. The litmus test may be how the Labour Group in the Assembly responds to the UK Labour Government's programme at Westminster. This may describe the extent to which we are witnessing the emergence of a more distinctively Welsh Labour Party. Certainly, as we shall see, this proved to be the case the first time that the Assembly came to a view on Westminster's legislative programme, in February 2000.

The immediate cause of the no confidence vote was a long-running argument over the issue of Treasury match funding for EU support for the west Wales and Valleys region. The question had featured prominently in the first elections for the National Assembly in May 1999. Since then all three opposition leaders in the Assembly had signalled it as the most important issue to face the Assembly in its first term (see First Monitoring Report, *Devolution: 'A Dynamic Settled Process'?*, IWA, December 1999). At stake was securing around £1.2 billion from the EU Objective 1 Structural Fund to be spent over the seven year period 2000 to 2006. This could only be drawn down if it were matched by roughly an equivalent amount, mainly from the public sector.

Labour's position, as articulated by Alun Michael, was that one way or another the match funding would be found. Sufficient funds were available for the financial year 2000 to 2001, identified as £25m from within the Welsh block grant derived from underspend on European programmes in previous years. Funding for subsequent years would have to await the UK Treasury's three-year Comprehensive Spending Review in the summer of 2000. In general terms Alun Michael expressed confidence in assurances he had received that, having secured Objective 1 status for west Wales and the Valleys at the Berlin European summit in the Spring of 1999, the Westminster government 'would not let Wales down'.

However, this position was too vague for the opposition parties. They were convinced that because of what they saw as the Welsh government's lack of urgency, both in terms of preparing plans for Objective 1 and guaranteeing adequate match funding over and above the Welsh block, momentum was being lost. In November all three Opposition economic spokesmen had signed a joint declaration on Objective 1 (see the previous Monitoring Report *Devolution: 'A Dynamic Settled Process'?*, December 1999). On January 20 Plaid Cymru presented an ultimatum, in the form of a published letter to Alun Michael, that unless an extra £85m was found for the first year they would table a no confidence motion at the end of the Assembly's budget debate on 8 February.

To a great extent -- which grew larger as the moment for taking the vote came nearer -- the argument over Objective 1, though real enough, was a pretext for an underlying and more fundamental disaffection. This was the style and character of Alun

Michael's leadership. The essence of the problem emanated from the Labour leadership contest between him and Rhodri Morgan in early 1999 in which Morgan won the majority of grassroots support but lost on the basis of the Union block vote. It was noteworthy that a majority of the Labour group in the Assembly, estimated to be as many as 21 of the 28 had been Morgan supporters. In any event Michael was widely perceived, fairly or unfairly, to be the choice of London rather than Wales. It was widely believed that this perception contributed a great deal to his failing to win a majority in the Assembly elections. An added dimension was his continued emphasis on the need to take account of Wales' links with Britain and reluctance to entertain distinctive Welsh initiatives. This only served to emphasise the fatal perception that he was 'Blair's man in Wales'.

Certainly, this was a common and frequently voiced complaint amongst the opposition parties. For instance, explaining Plaid Cymru's threatened vote of no confidence to the London media, the party's acting leader in the Assembly Ieuan Wyn Jones, said:

"We have not been able to have a radical policy agenda which shows that the Assembly can make a difference to people's lives. The structures are in place to have a more open debate about a specific Welsh agenda. We have the tools but we are not being allowed to use them"(Guardian, 3 February 2000).

In the weeks leading up to the no confidence vote the same complaint was voiced from within the Labour group itself. In an article in *The Western Mail*, John Marek, Labour AM for Wrexham, wrote:

"Can you think of anything the National Assembly for Wales has done that would not have been done if the body did not exist and we continued to be ruled by a Secretary of State from London? You can't? Well, that's because the rule of thumb for the Government of Wales when framing legislation is to take it from Westminster and whenever it says 'England' insert 'Wales' instead. Nothing more than this is being done, with the result that arguments multiply over important matters such as teachers' pay where the Welsh Government is trying very hard simply to replicate what is happening in England against the wishes of the teaching profession and a majority of Assembly Members ... There is a loyalty within the system, rightly to the Crown but via 10 Downing Street, and this will have to change before the Assembly is seen to be working well. The present First Secretary has these loyalties and needs to understand that they must be changed in favour of Wales" (*Western Mail*, 27 December 1999).

The essence of this complaint was echoed by Caerphilly Labour AM Ron Davies in a wide ranging speech on 19 January that clearly signalled how devolution was shortly to be relaunched. "Limping on, day to day, issue by issue is not a practical option," he said, "nor is trying to compel the Assembly to bend its collective knee in obedience if our will fails to prevail" (address to IWA and Welsh Governance Centre, Cardiff University, see *Agenda*, IWA, Winter 2000). The speech received extensive media and press attention and helped promote an atmosphere in which an expectation in the media that a radical shift was about to take place gained momentum.

A few days earlier a letter from Ron Davies, AM for Caerphilly, to the Labour opposition group on Caerphilly County Council had been leaked to the Press. The letter was a response to a query from the group asking for guidance on how they should respond to the ruling Plaid Cymru administration's campaign on Objective 1. Ron Davies responded that Plaid were broadly correct in their analysis and Welsh Labour's defensiveness on the issue had forced them on to the backfoot in its dealings in the Assembly (Western Mail, 14 January). In his speech the following week Ron Davies launched into a penetrating analysis of the inadequacies of the Assembly's operation, which was widely interpreted as an attack on Michael's leadership. He summarised the problems as follows:

1. There is no mechanism for collective discussions on the wide range of constitutional issues facing the Assembly. How do we consider whether powers and functions are adequate? How do we develop relationships with Westminster and Members of Parliament representing Welsh constituencies? Is the Assembly of the right size and composition and are the existing electoral arrangements satisfactory?
2. There is no real process of collective decision making within the Assembly in plenary. Too often we're offered a take it or leave it approach from the Executive and a range of party political inspired amendments from the opposition parties. As a result the Assembly, as a corporate body, has little sense of its own identity. It is to the Assembly as a whole, established by legislation and charged collectively with rights and responsibilities to the people as a whole, that Parliament has given powers. The Assembly is the representative voice of Wales but has failed to develop significant relationships or links with the UK Parliament and the other devolved Assemblies. Concordats between Executives are a second-best substitute.
3. There is a clear and growing perception that power is concentrated in fewer and fewer hands and that the Executive desires to downplay the role of Subject Committees both in effective scrutiny of its actions and in discharging their policy-making role. Attempts to influence the Office of the Presiding Officer and political interference in the circulation of official reports prepared for Committees are not hallmarks of an administration at ease with itself and confident in its relationship with the Assembly. The National Assembly was not designed as a committee or cabinet model or as a committee versus cabinet model. It was designed as a hybrid - a Cabinet and Committee model - and will operate most effectively when the rights and responsibilities of all concerned are recognised by all concerned.
4. There is no effective forum for policy formulation for the Assembly as a whole, no process for the engagement of Assembly Members in developing vision or strategy and an administration which, in policy making, has yet to develop an outgoing and radical approach. It is difficult to identify any policy initiative emanating from the Assembly itself. Current policies are those of the UK Government or of the Welsh Office pre-devolution. Unfortunately there is no effective mechanism in prospect for the Assembly to look outward to engage with those in the private or public sector who themselves have a public policy research capacity

5. The administration is surviving day-to-day on the basis of one-off agreements with one or other of the minority parties. These agreements, however, are not reached on the basis of open and informed debate nor is their existence formerly acknowledged. This does nothing to establish the Assembly's already faltering image (*Agenda*, Winter 2000, IWA, p. 28).

The impact on the Labour group in the Assembly was laid bare in a plenary debate two weeks later (February 2) on the Assembly's response to the Westminster Government's legislative programme. The Assembly had twice debated the Queen's Speech in plenary sessions on 30 November and 8 December. Drawing on contributions from all parties, civil servants had drawn up a document claiming to represent a consensus view. Presenting the document Alun Michael claimed that it was not his, the Cabinet's or the Labour Group's response, but rather sought to represent the views of the Assembly as a whole. This claim was bitterly refuted by the opposition parties. Most anger was directed at the document's suggestion that the Assembly supported the *Criminal Justice (Mode of Trial) Bill's* limiting the right of defendants' to opt for a jury trial. For Plaid Cymru Ieuan Wyn Jones complained that the draft response had been drawn up without consultation with the opposition. For the Conservatives Nick Bourne said the document should either have been presented as the Executive's response or have been put together by a Committee answerable to the Assembly:

"I object to this being presented as something that has been prepared by civil servants on our behalf, when civil servants are answerable to the administration. I also object to the fact - and this happens time and time again - that things are sent out in the name of the Assembly when they have been prepared by the administration. It is sickening for every Assembly member when this happens" (*Assembly Record*, 2 February).

At the end of the debate the document was substantially changed as a result of a series of opposition amendments.. First the First Secretary's motion that the document be 'approved' by the Assembly was changed, by a Plaid Cymru amendment, that it be simply 'noted'. This was passed by Plaid Cymru, Conservatives and Liberal Democrats combining against the Labour vote.

A second amendment was then proposed by the Conservatives to the effect that the Assembly should note *the Executive's* response to the Westminster Government's programme. This amendment fell because only Plaid Cymru and the Conservatives supported it -- the Liberal Democrats shifted to the Labour side. What this showed was that while the Liberal Democrats were willing for the Assembly as a whole to be seen to be expressing a view on the Government's programme, both Plaid Cymru and the Conservatives preferred to leave the motion in the name of the Executive. It presaged a significant difference in emphasis between the Opposition parties on powersharing options that were shortly to be considered in some detail.

The vote on a Liberal Democrat amendment '*the abolition of defendants' right to opt for jury trial proposed in the Criminal Justice (Mode of Trial) Bill amounts to a serious erosion of civil liberties*' revealed a division within the Labour Group that further heralded what was to take place in the vote of confidence a week later. The

Labour Group insisted on a free vote on this amendment and as a result it was passed overwhelmingly, with 41 members in favour, four against, and four abstaining. The names of the latter two groups, all Labour, were revealing. Those who voted against were:

Brian Gibbons (Aberavon)  
Huw Lewis (Merthyr)  
Alun Michael (Mid and West Wales Regional List)  
Lynne Neagle (Torfaen)

Those who abstained were:

Lorraine Barrett (Cardiff South and Penarth)  
Janice Gregory (Ogmore)  
Ann Jones (Vale of Clwyd)  
Rhodri Morgan (Cardiff West)

Apart from Rhodri Morgan and Brian Gibbons, these names described the Alun Michael core camp within the Labour Group. Three of them were whips - Barrett, Lewis and Gregory - who resigned following Michael's own resignation, in protest at alleged plotting by the Chief Whip and Business Manager Andrew Davies in favour of Rhodri Morgan (Western Mail, 11 February 2000). The debate revealed three broad tendencies amongst the Labour Group. First were the five Alun Michael loyalists, listed above, who shared his caution on striking a distinctive Welsh policy agenda and who were temperamentally inclined to accentuate the unionist, British dimension of Welsh identity. In contradistinction was a larger group, of around 14 members, strong devolutionists who wished to see distinctive Welsh policies and greater autonomy for the Assembly. These included:

Rhodri Morgan (Cardiff West)  
Jane Davidson (Pontypridd, the Deputy Speaker)  
Andrew Davies (Swansea West, the Business Manager and Chief Whip)  
Jane Hutt (Vale of Glamorgan, Health and Social Services Secretary)  
Carwyn Jones (Bridgend)  
Ron Davies (Caerphilly)  
Sue Essex (Cardiff North)  
Alan Pugh (Clwyd West)  
Gwenda Thomas (Neath)  
John Griffiths (Newport East)  
Val Feld (Swansea East)  
John Marek (Wrexham)  
Richard Edwards (Preseli Pembrokeshire)  
Christine Chapman (Cynon Valley)

In-between was another substantial element in the Group who wavered between the two wings described above. Decisively they swung to the side of Rhodri Morgan following the no confidence vote:

Edwina Hart (Gower, Finance Secretary)  
Peter Law (Blaenau Gwent, Environment and Local Government Secretary)



Rosemary Butler (Newport West, Secretary of Education and Children)  
Tom Middlehurst (Alyn and Deeside, Secretary for Education and Training)  
Christine Gwyther (Carmarthen West and South Pembrokeshire, Agriculture and Rural Development Secretary)  
Karen Sinclair (Clwyd South)  
Alison Halford (Delyn)  
Brian Gibbons (Aberavon)

The presence of Rhodri Morgan amongst those who abstained on the jury trial amendment requires some explanation. A spokesman for his office explained that he did not wish to vote against the Westminster government on the issue but at the same time was reluctant to positively approve the policy. Of course, abstaining positioned himself midway between the opposing wings of the Labour Group.

When it came to the final vote to approve the amended Assembly response to the UK Government's Legislative programme, it was carried but on the basis of a combination of Plaid Cymru and Liberal Democrat votes. The Conservatives voted against and Labour abstained. This was the first public sign that Alun Michael's administration was unravelling. From a position where he had first proposed that the Assembly approve a response drawn up by his officials he found himself just over two hours later unable to support what had started out as his own policy.

There was little awareness of the significance of this moment outside the Assembly chamber. Little was reported in the Press or media, probably because the Assembly was seen to be merely commenting upon a legislative programme emanating from elsewhere. On the other hand the fact that a large majority of the Labour Group registered opposition to the Labour administration in London in significant policy areas should have been a matter for comment.

The day before, in an effort to placate the opposition parties Alun Michael produced a detailed plan for a cross-party 'Bridging Committee' comprising five Labour members, three Plaid Cymru, two Conservatives, and two Liberal Democrats. In addition it would include two Subject Committee chairs, depending on the agenda, and a Cabinet Secretary to be included among Labour's five representatives, again depending on the issue being discussed. In a letter sent to the opposition leaders Alun Michael pointed to a gap in consultations between the parties that was "not adequately filled by the business committee, the meetings of the party leaders, or the panel of chairs [of Subject Committees], although each of them has a role to play" (Western Mail, 2 February). The role of the Committee would be:

- To prepare the ground for plenary on strategic policy issues than encompass more than one committee.
- To consider and update the corporate plan.
- To take forward the budget process.
- To stimulate the role of the Subject Committees in policy development.

This 'Bridging Committee' idea was, in fact, the first of five 'powersharing options' drawn up by Val Feld, AM for Swansea East, for consideration by the Labour Group at about the same time and reproduced here in Appendix 1. The Committee was given a cautious welcome by Liberal Democrat leader Michael German who said:

“This is one step towards the inclusive Assembly which we had all expected to be established” (*Western Mail*, 2 February 2000).

However, the initiative was too late to hold back a momentum for a change in the leadership that was becoming irresistible. In particular, events were moving outside the Assembly itself. Most immediate was the Ceredigion Parliamentary by-election that took place on 3 February. It had been precipitated by Cynog Dafis resigning his Parliamentary seat in order to concentrate on his work as a List member for Mid and West Wales. This, he said, differentiated him from the other Plaid Cymru Assembly members, Dafydd Wigley and Ieuan Wyn Jones, who were also Westminster MPs. Their Assembly and Westminster seats were coterminous which made the job of representation easier. There was, of course, an entirely different explanation. The suddenness of the by-election announcement, combined with its exquisite timing so close to the no confidence vote displayed a tactical manoeuvre of some ruthlessness. Furthermore, it brought further pressure on Alun Michael since he shared a Mid and West Wales List seat with Cynog Dafis and also represented a separate seat at Westminster, Cardiff South and Penarth.

The by-election resulted in a humiliation for Labour which was pushed from second place at the 1997 election into fourth position with just 14.4 per cent of the vote - behind Plaid Cymru, Liberal Democrats and the Tories. Although it was a Westminster election the main issues in the campaign played to National Assembly concerns -- the farming crisis, the threat to rural health services, and the debate around Objective 1 match funding. On the night of the by-election BBC Wales carried a Beaufort poll which sought responses on who would be the best First Secretary from among the party leaders. Alun Michael scored just 22 per cent compared with 29 per cent for Plaid Cymru’s Dafydd Wigley, 7 per cent for Nick Bourne (Conservative), and 5 per cent for Michael German (Liberal Democrat).

A few days earlier HTV Wales had published an NOP poll, conducted between 13 and 18 January, which asked whether the opposition parties should combine to vote Alun Michael out of office if he was unable to secure enough matched finance from the government in Westminster. A clear majority indicated were in favour of this proposition, as shown in the table at the top of the following page.\* Over the weekend preceding the confidence vote these gauges of public opinion led two Westminster Labour MPs -- Paul Flynn, Newport West, and Jon Owen Jones, Cardiff Central and a former Welsh office Minister --- to call publicly for Alun Michael to resign. As Jon Owen Jones put it:

“We have to accept that Alun’s leadership in the Assembly has been unpopular and that the root of this unpopularity is the widely perceived unfairness of his election” (*Western Mail*, 8 February).

#### **HTV POLL CONDUCTED BETWEEN 13 AND 18 JANUARY**

- **If Alun Michael is unable to secure enough matched finance from the Government in Westminster to maximise the amount Wales will receive from**

---

\* The question was repeated in a further poll after the event when the responses were even more emphatic. See Section 11 on Public Attitudes.

**the EU, should the Opposition parties in the National Assembly combine to vote him out of office?**

	ALL	Lab	Con	Lib Dem	Plaid Cymru
Yes	53	37	63	68	67
No	28	39	27	20	23
Don't know	19	25	11	11	10

And he warned that if Michael continued in the leadership Labour could only expect to be further punished in the polls. Earlier, however, Michael had been supported in a joint statement put out by Ann Jones AM, Chair of the Labour Group in the Assembly, and Jim Hancock, Chairman of the Welsh Labour Executive, the two bodies responsible for electing the leader in Wales under the party's new rules. Such declarations echoed divisions that occurred the previous year in the leadership contest between Alun Michael and Rhodri Morgan. But for Alun Michael it was worse than that. The unity claimed by the joint statement was in fact nothing of the sort. As Kevin Morgan and Geoff Mungham reveal, in their forthcoming account of devolution *Redesigning Democracy: The Making of the Welsh Assembly*:

“In reality the letter had been written by Michael’s personal advisers and it had never been discussed by the Labour Group in the Assembly. Consequently many AMs were furious at the crude and undemocratic means employed to misrepresent their views. This letter infuriated Andrew Davies, the Chief Whip, who had not been properly consulted on the matter; so much so that he openly expressed disquiet at the next Group meeting, a move which led to a furious row with Julie Crowley, Alun Michael’s political adviser, who accused Davies of ‘disloyalty’ to the First Secretary. Such was the command and control culture in Michael’s private office that disagreement was tantamount to disloyalty” (*Postscript: Anatomy of a Crisis*, Seren).

Also over the weekend preceding the confidence vote, the Liberal Democrats held successive meetings of the party’s Welsh Executive, in mid Wales on Saturday, followed on Sunday by a conference of constituency activists. The main item on the agenda at both meetings was whether and on what terms the party should contemplate some kind of coalition or arrangement with an Alun Michael-led government. The discussions reiterated a long-standing difference of emphasis between the urban and rural wings of the party. Whereas some elements representing southern constituencies (notably the party leader Michael German) were anxious to at least consider options, for example the ‘bridging committee’ proposal, representatives from the rural heartland (especially Kirsty Williams, AM for Brecon and Radnor, and Mick Bates, AM for Montgomery) were implacably opposed. They insisted that any deals with Labour, especially the party lead by Alun Michael, would result in too high a penalty at the polls. Labour which was widely seen as unresponsive to rural issues in rural, a perception that had been emphatically confirmed by the Ceredigion by-election .

This was the background to the events that swiftly unfolded in the forthcoming week that saw Alun Michael’s resignation. It began with a meeting of the Labour Group in

the Assembly, on Monday 7 February, where there was a discussion on how the Group should respond to the forthcoming no confidence vote. According to Morgan and Mungham:

“Alun Michael and his advisers had originally wanted to confine the discussion to officers of the Group and officers from the Wales Labour Party, party apparatchiks on whom he could count” (*Ibid.*).

However, the Group insisted on meeting immediately after the no confidence vote to participate fully in the decisions that would have to be taken. Yet even at this stage Alun Michael appeared to believe he had every chance of survival. As he told the *Western Mail*, he was determined to resubmit himself for renomination if a vote of no confidence were to pass against him:

“I think its for Plaid Cymru which has laid down this challenge to say what it would have to offer in place of a successful administration and the successful achievements of Objective One. I am there until there is a good reason to stand down. The fact is that we have succeeded in delivering the Objective One money for this year and for the coming years” (*Western Mail*, 7 February 2000).

He also appear to believe until the last moment there was a possibility that the Liberal Democrats would agree an arrangement that would save his administration. Yet the Liberal Democrats in the Assembly were extremely exercised by the Objective 1 issue. In particular their leader Michael German, as the lead spokesman on Economic Affairs, had taken a personal interest. For instance, his close questioning of civil servants had revealed the fact that up to £250 million had still to be paid to approved projects under the 1994-99 EU programme (Liberal Democrat Group, Media Release, 8 February).

Plaid Cymru tabled their motion of no confidence late on Tuesday afternoon. On Tuesday evening Alun Michael, together with the Secretary of State for Wales, Paul Murphy, and Economic Secretary Rhodri Morgan, sat in his office on the fifth floor of the Assembly building waiting for a Liberal Democrat delegation to discuss terms. None came, except Michael German’s political assistant, Michael Hines, to say there was nothing to discuss.

The same evening the British Prime Minister, Tony Blair, had a telephone discussion with the Westminster Liberal Democrat leader Charles Kennedy, probing the possibility of a deal. Charles Kennedy replied to the effect that this was a matter for his party in Wales but that he would “pass on the message”. There is disagreement about its exact content, but that a conversation did take place along these lines was confirmed by Charles Kennedy himself (in an interview with Radio Wales, 12 February). It was an important revelation since it perpetuated the impression that Alun Michael was Tony Blair’s ‘man in Wales’: although not, of course, to the extent that a precise commitment on match funding for Objective 1 could be made ahead of the Comprehensive Spending Review.

Also on the Tuesday evening Plaid Cymru’s Acting Business Manager Jocelyn Davies, AM for South East Wales, informed the Presiding Officer’s office that

following the motion of no confidence the next day a further motion would be tabled to revoke the Assembly's delegation of its functions to the First Secretary. Fortunately, time was available the following afternoon for a Minority Party debate and Plaid Cymru intended to table this motion as an opportunity to cut through any logjam that might occur if Alun Michael was renominated. Early on Wednesday morning Ieuan Wyn Jones, Plaid Cymru's acting leader, met with Nicholas Bourne, the Conservative leader, and Michael German, the Liberal Democrat leader, and both agreed to join with him in proposing the motion. It was duly tabled at 4pm that afternoon, while the Cabinet were meeting following the no confidence vote in Alun Michael. This was the so-called 'Nagasaki' instrument. It read:

“This Assembly resolves that all delegations made to the Assembly First Secretary under Section 62(1) of the Government of Wales Act of all the Assembly's functions which the Act did not reserve to the Assembly in Plenary session shall forthwith cease.

“This Assembly also resolves in the exercise of its powers under Section 63 of the Government of Wales Act to delegate to the Assembly staff the functions previously delegated to them by Assembly Secretaries.”

Jocelyn Davies, formerly a mature student studying law at Harris-Manchester College, Oxford, had come up with this device some weeks earlier and had taken advice from a former tutor, an expert in constitutional law. It is significant that the Plaid Cymru Group did not take advice from the Assembly's own law officers. As Jocelyn Davies put it:

“There was nowhere in the Assembly we could go to get independent legal advice. Although we had been thinking along these lines for some time we only decided to press ahead with the motion the evening before the no confidence vote. By then it was clear that Alun Michael intended to try and cling to office despite a vote against him. In some respects the withdrawal of the delegation was a stronger message than the no confidence motion itself. As a Plaid Group it gave us greater confidence to press ahead with the no confidence vote, because we knew we had a further weapon to hand. At the same time, when we reached that point the matter had ceased to be about having confidence in one individual. Rather, because that individual was intent on ignoring the will of the Assembly it became a matter of the credibility of the Assembly itself as an institution” (interview 21 February).

At what stage Alun Michael became aware that the 'Nagasaki' motion would be tabled is not clear. But it was only on the morning of the vote of no confidence that he seems to have finally realised that his room for manoeuvre was disappearing. Later he revealed that it was during the morning that he made the decision to resign, informing only two of his closest advisers in advance of the announcement (*Western Mail*, 6 March). He wrote a letter to the Presiding Officer complaining that his Office was losing impartiality by planning to rule in favour of the Opposition parties (see Section 3 on the Office of the Presiding Officer) and resolved to make one last throw. This was to dramatically hand in his resignation moments ahead of the actual no confidence vote, in the hope of circumventing it. Even then, he appears to have

believed there was still a chance that he could be renominated as First Secretary, as his resignation letter to the Presiding Officer reveals:

Dear Dafydd,

This letter is to inform you that I am resigning as First Secretary with immediate effect. I will be consulting with my party in order to come to a view as to whether the Labour Group will propose a new First Secretary when the Assembly meets to elect one and if so, whether that should be myself or another Labour Assembly Member.

Yours sincerely,

Alun

However, his action in resigning in an effort to pre-empt the vote was widely seen as ill judged, not least amongst a majority on his own side, for most of whom the move came as a complete surprise. It also angered the Presiding Officer who said later he did not care for “amateur dramatics” in the Chamber (*Western Mail*, 10 February). It finally swung waverers in the Labour Group behind Rhodri Morgan as an alternative leader. Alun Michael was driven back on his core support, just five AMs, all of whom were among the small number who had been with him on the vote on limiting trial by jury the previous week.

## 2. THE NEW ADMINISTRATION AND ITS POLICY AGENDA

Rhodri Morgan's accession to the leadership brought a sense of rejuvenation to devolution supporters and a new sense of purpose to the devolution project itself. This was confirmed in an opinion poll conducted by NOP for HTV Wales and published on 2 March revealed a marked enthusiasm for Rhodri Morgan compared with the rating Alun Michael achieved in a previous poll in January, as the following table illustrates:

### HTV POLL CONDUCTED BETWEEN 13 AND 18 JANUARY

- **How good a job do you expect Rhodri Morgan to do as First Secretary of the National Assembly? Would you say**

	Now (Rhodri Morgan)	January 2000 (Alun Michael)
Good	79	41
Poor	10	36
Don't know	11	23

To a great extent the sense that there would now be a fresh start for the devolution project was due to Morgan's personal style -- openness, wit, and obvious enthusiasm for the task ahead. In an address to the Institute of Welsh Affairs and Welsh Centre for International Affairs on the eve of his confirmation as First Secretary, on February 14, Rhodri Morgan effortlessly displayed all these characteristics. He spoke for an hour, without a note, on the theme *Variable Geometry UK* reflecting on the nature of devolution within the United Kingdom. A process was underway, he said, in which Wales, Scotland and Northern Ireland were progressing at different speeds and in different forms towards greater self-determination. He predicted that within ten or twenty years a written constitution would be needed to entrench their powers:

“Because of this dreadful phrase ‘power devolved is power retained’ there was not what you could call a revolution to take the powers of the Welsh Assembly. It was all done in an orderly manner of party manifestos and elections and referenda and Houses of Parliament and so forth. Therefore in theory, with the theory of the elected dictatorship it could be reversed by a future Government. I don't think it ever will be. When you look at the last 1,000 years, rather than the last 100 years, you can see that in this tortured relationship between the Celts and Anglo-Saxons within these islands up to 1920, it was an imperial expansion of England into Wales initially, then into Scotland, and then into Ireland through various forms of Acts of Union. But then from about 1850 onwards the talk was gradually not about Acts of Union but about movements towards disunion, of redefining the rights for the Celtic nations of Ireland, Scotland and Wales.”

Turning to the immediate future he remarked:

As far as I'm concerned devolution learnt a lot in Wales last week. We learnt some of the weaknesses of the procedures. I hope that over the next three years through to the next Assembly we learn a lot more and eventually get a strong firm basis back in the esteem of the people of Wales. That's the most serious thing about the past eight or nine months culminating in a way in the events of last week: a drop in the esteem of the people of Wales. A loss of interest, yes. A little bit of being fed up - where's it going? What's it done? A little bit like that famous line in Monty Python's *Life of Brian* 'Whatever have those Romans done for us?' ... We've got a major job to do after last week's events. How can we be sure that in a few years time the Assembly will be riding high in the esteem of the people of Wales? Now if I've got anything to do with it, I hope that I can say in the next year or so - however long it takes - that the Welsh Assembly will be flying the flag for Wales. People will look at the Welsh Assembly and they will be as proud to be represented by it as they are of the Welsh Dragon" (*Variable Geometry UK*, IWA, March 2000)

On the vexed issue of Objective 1 funding Morgan openly conceded there was a fight to be fought and won:

"The comprehensive spending review is due in July when we will find out how much match funding we will get. We've got from now until then to persuade the Treasury and I'm not going to pretend that the negotiations won't be very tough. One thing we must do is get excellent projects in place, so we can impress the Treasury that the money will be well spent" (*Wales on Sunday*, 13 February).

It would be impossible to imagine Alun Michael projecting his vision in the same way. The change in emphasis won immediate approval from Plaid Cymru's Shadow Economic Development Secretary Phil Williams:

"It's very refreshing to hear Rhodri admit that negotiations with the Treasury will be tough. His approach is completely in contrast to that of Alun Michael who wanted to pretend there was no problem and gave patronising lectures to the Opposition as if we didn't understand the issue" (*Ibid.*).

In terms of shaping his new administration caution Rhodri Morgan began slowly, deciding to play it long. He recruited one new addition to his Cabinet by splitting the Environment and Local Government post and bringing in backbencher Sue Essex, the Cardiff North AM and former leader of Cardiff City Council to run a new portfolio concentrating on Planning, the Environment and Transport. This would not mean an increase in the numbers in the Cabinet since Morgan would combine his previous role as Economic Development Secretary with his post as First Secretary. There would be a further review and an announcement of more changes in the summer. These would include a re-assessment of the structure of Subject Committees in the Assembly, and changes in Cabinet portfolios could be expected to follow any changes there. Meanwhile Rhodri Morgan's new Cabinet, with other minor adjustments, was as follows:

- First Secretary ..... Rhodri Morgan  
(plus Economic Development and European Affairs)



- Planning, Environment and Transport ..... Sue Essex
- Local Government ..... Peter Law  
(and Chair of the Partnership Council with Local Government)
- Finance Secretary ..... Edwina Hart  
(also takes responsibility for anti-poverty policies and equal opportunities)
- Health and Social Services ..... Jane Hutt  
(loses equal opportunities but leads on the voluntary sector partnership)
- Pre-16 Education ..... Rosemary Butler
- Post-16 Education ..... Tom Middlehurst  
(gains responsibility for youth services)
- Agriculture and Rural Affairs ..... Christine Gwyther
- Business Secretary ..... Andrew Davies

The appointment of a fifth woman to the nine-member Cabinet was hailed as a milestone in equal opportunities by the First Secretary. Remarking that Wales now had the only Cabinet in any democratic country in the west with a majority of women he quipped, “This is a small step for the Welsh Cabinet but it’s a giant leap for Welsh womenkind” (Guardian, 23 February)\*. In another innovative move Rhodri Morgan also appointed three of his backbenchers to newly created junior ministerial posts:

- Alan Pugh, AM for Clwyd West, Health and Social Services
- Carwyn Jones, AM for Bridgend , Local Government, Environment and Land
- Christine Chapman, AM for Cynon Valley, Education and the Economy

It is noteworthy that these portfolios are cross-cutting between Cabinet Secretary briefs. Junior Ministers, though unpaid, will attend Cabinet meetings and speak in the Assembly on behalf of the administration. The First Secretary’s spokesman explained:

“This is about involving people and exposing them to the realities of ministerial life, allowing them to take part in discussions with officials, seeing how the policy formation process works, and contributing to it ... In the weeks and months to come that will possibly involve other parties. He’s keen to innovate and do things in different ways” (*Western Mail*, 24 February).

---

\* The claim was actually inaccurate: the Swedish government currently has a majority of women in its Cabinet.

Inevitably there was much speculation that the new appointees were being tested with a view to their entering the Cabinet at the anticipated more wide-ranging reshuffle in the summer. Would there also be a role for Ron Davies, possibly as Economic Development Secretary?\*

There was change, too, to the system of policy antennae and political advice around the office of First Secretary. Alun Michael's four policy advisers (see the IWA's first *Monitoring Report*) automatically vacated their positions with the resignation of the First Secretary. Rhodri Morgan announced that instead of their automatic replacement with his own political appointees, he would advertise the posts. In the meantime Kevin Brennan, a long-standing lieutenant is acting as, in effect, Chief of Staff overseeing political communications in and out of the First Secretary's office. Previously he had ran Morgan's Cardiff West constituency office as well as contributing to speech writing and policy development generally. A Cardiff councillor he is widely regarded as a potential successor to Rhodri Morgan at Westminster.

In terms of relationships with the Opposition Parties, some reassessment was acknowledged to be necessary to establish stability. As Rhodri Morgan told the plenary session that confirmed his appointment, "We cannot allow the culling of First Secretaries to become an annual bloodsport of the Assembly" (*Assembly Record*, 15 February). However, although the previous week he had 'ruled nothing out, and nothing in' he now made clear that a formal coalition was not on the cards. In the speech he made on the eve of his election as First Secretary he explained his view by comparing Wales with the situation in Scotland :

"Do we really have to look forward to an Assembly that can only be politically stable if at least one other party comes in on the deal? Now, in Scotland they had had seven or eight years working together – Labour and the Liberals in the Constitutional Convention. Therefore it was not difficult – the confidence building measures had been there, they knew each other, they trusted each other. There were awkwardness of course – there is mistrust, you're not in different political parties for nothing, you're in different political parties because you, at the end of the day, believe in different things. But in Wales, we had nothing like that. We had no constitutional convention. We had no platform for being able to build sufficient trust to enter a coalition" (*Variable Geometry UK*, IWA, March 2000).

The third option in Val Feld's Paper *Powersharing Options* (see Appendix 1) now appeared to be the favoured approach. Described as *Joint Programme and task groups* it would allow for the following:

- Joint programme for term of Assembly by officers of four (or three?) parties going through Manifestos, finding common policy areas and through existing processes build a programme around these.

---

\*\* His position may not have been helped, however, by the Conservative leader Nick Bourne suggesting he should be considered for the position. Criticising Rhodri Morgan for continuing to hold on to the portfolio at the same time as becoming First Secretary, he said "We need somebody working on the Objective One project all the while. There are people within the Labour Party with experience and detailed knowledge of Treasury issues" (*Western Mail*, 1 March)

- More difficult but important areas to be tackled by establishing ‘Task and Finish’ groups with Assembly Secretary, Chairs and interested others (with party balance) to agree policy/programme to bring to plenary.

Plaid Cymru was quick to respond to the new atmosphere of openness and flexibility. Dafydd Wigley, who by now had returned to his leadership role having recovered from heart problems the previous December, indicated they would allow Morgan a fair wind (Western Mail, 9 February). The following day Wigley sent the First Secretary a letter outlining the party’s position and priorities, an extract from which follows:

“I hope that the Executive will conduct itself in a more open and co-operative way than has been seen hitherto. There should be arrangements for a regular dialogue. If the Cabinet proposes to introduce policy developments to the Assembly we would like those to be shared with us, as the main opposition party, in good time, so that we can consider our attitude to them, and indeed see whether there may be a way of identifying common ground on them. Conduct of this kind on the part of the Cabinet would be key in order to establish a constructive relationship.

For the policy agenda, we would consider two matters to be crucial:

1. On the issue of Objective 1 we would like you to declare clearly that all European funding would be additional to the block that comes to the Assembly through the Barnett formula and that the Treasury should provide adequate match funding. Further, the principle of additionality should be accepted for other European programmes such as the agri-environmental schemes and a scheme to assist new entrants to farming. We would want to see you, as First Secretary, campaigning and pressing for these principles to be implemented by the Government of the UK.
2. On the question of the constitutional future of Wales, we would like you to support a request to the Presiding Officer of the Assembly to establish a conference to consider further constitutional development, including full legislative powers, and the right to vary taxation and transfer of additional areas of responsibility to the Assembly. Also we would like to ensure that the independence of the Office of the Presiding Officer be guaranteed. Such a conference should report to the Assembly in six months.

Beyond these two key matters, we trust that you will develop a policy programme based on the priorities and needs of Wales. This will involve a willingness to act differently from the Westminster Government at times.

The following are examples of policy developments that we would wish to see put into place:

1. In the field of health, a commitment to introduce free dental charges.
2. In the area of education:

- A WelshBac pilot
  - A review of the functions of national institutions such as WJEC, ACCAC and Estyn, with a view to restructuring and re-defining their roles.
  - Introduction of a teacher salaries' system which is acceptable to Welsh opinion.
1. The establishment of a Development Fund.
  2. The setting up of a scheme to facilitate new young entrants to farming.
  3. The strengthening of Welsh representation in Europe through the development of 'Ty Cymru' and ensuring that a member of the Assembly staff is seconded to UK Rep.
  4. Drawing up of an effective strategy for the creation of a bilingual Wales.

Generally, our wish is that you as First Secretary, and your Cabinet generally give expression in all ways to the national awakening which is now happening in Wales" (letter from Dafydd Wigley to Rhodri Morgan, 10 February 2000).

For their part the Liberal Democrats hailed the practical beginnings of a new consensual approach to policy. The same day that Rhodri Morgan was confirmed as First Secretary a debate on transport policy reached agreement between Labour, Liberal Democrats and Plaid Cymru after consultations on a number of amendments had preceded it. The party's transport spokesman, Peter Black, said:

"Calls for additional powers to implement an integrated transport system in Wales have been accepted. We have campaigned for public transport authorities in Wales; the power to direct the Strategic Rail Authority in relation to a single rail franchise for Wales; and the responsibility to appoint a Welsh representative on the Strategic Rail Authority. All these calls have been accepted by Labour. The Assembly can now move forward united in its determination to improve transport services" (*Western Mail*, 16 February).

Beyond such beginnings the Liberal Democrats had not let go of the idea that some kind of coalition arrangement might become necessary in the coming year, and were busy preparing documents for use in that eventuality. However, their leader, Michael German, acknowledged that this would be 'stage two' in the process underway. First procedures would need to be put in place to create a more co-operative culture in the Assembly. A week later the Liberal democrats published a paper outlining what these should be: *Building Trust: Welsh Liberal Democrat proposals for establishing a co-operative culture in the National Assembly* (see Appendix II). In a letter to Rhodri Morgan enclosing this document Michael German wrote:

"Your call for building a culture of trust has a particular resonance. The fact that Wales never had the Constitutional Convention that in Scotland laid the

foundations for devolution, means that we have 60 AMs who are not at ease with the sort of co-operative politics our electoral system demands.

So, I agree that we have to build trust between the parties in the Assembly and the Liberal Democrats are fully prepared to play our part. I do not believe, however, that we can build trust at this stage through a joint programme of government delivered through a minority administration.

First we need to re-examine the Assembly's processes and, in particular, we need to look to greater freedom of information and more power to the Subject Committees. It is by demonstrating transparency and devolution within the Assembly that we will build up trust from the bottom up" (letter to Rhodri Morgan from Michael German, 24 February).

### 3. OFFICE OF THE PRESIDING OFFICER

Moments before the no confidence debate took place in plenary session on 9 February members from the three Opposition parties joined together to raise a point of order drawing attention to outside criticism of the Presiding Officer, Lord Dafydd Elis Thomas. His impartiality had been questioned by Don Touhig, Labour MP for Islwyn. He had warned the previous day that if the Presiding Officer refused to allow a re-submission of Alun Michael's nomination as First Secretary following a no confidence vote, the Presiding Officer would be, in effect, siding with his own party. And he claimed that Lord Elis Thomas was "severely compromising" his position in media interviews (*Western Mail*, 9 February). This was in response to a sideways remark Lord Elis Thomas had made at the weekend. Asked by an interviewer on Radio Wales what he thought the future held in store for the First Secretary, the Presiding Officer responded: "If I were Alun Michael I would go and pray" (reported by *The Western Mail*, 7 February). What sounded like a humourous aside in a radio programme looked quite different in cold print.

Touhig's attack was an indication of the pressures that had been building up on the Office of the Presiding Officer, both from the Executive and from outside, as the day of the no confidence debate approached. It raised fundamental constitutional issues: not just about the impartiality of the Presiding Officer himself, but about the impartiality of the advice he was receiving in circumstances where his Office did not have access to a civil service separate from that serving the Executive.

The dilemma that seemed to be about to occur was a potential 'ping-pong' as successive opposition motions of no confidence followed the Labour Group's re-submission of Alun Michael's name as their nominee for the First Secretaryship. It was generally agreed, not least by Lord Elis Thomas himself, that if this were allowed it would bring the Assembly into disrepute. Hence the Presiding Officer might have to intervene to rule one side or other out of order. But which side should he choose? Either choice would bring accusations that he was favouring one side or the other. Early on -- before Christmas in fact -- Lord Elis Thomas had aired his view that if the Opposition sought to bring down the administration in circumstances where no appeal to the electorate is possible (because of the fixed four-year term) they should first have a clear idea of what alternative administration they wished to see in its place.

The Standing Orders were decidedly unhelpful. Only two short paragraphs deal directly with the resignation of a First Secretary:

"A First Secretary may resign by giving notice in writing to the Presiding Officer. If the Assembly resolves that it has no confidence in its First Secretary, he or she shall give such notice immediately.

"Where a First Secretary has resigned (or if the office otherwise becomes vacant) other Assembly Secretaries shall remain in office until the Assembly elects a new First Secretary; and the Assembly Cabinet shall elect one of its members to chair its meetings and discharge the First Secretary's responsibilities until the Assembly elects a new First Secretary" (paragraphs 2.9 and 2.10, *Standing Orders of the National Assembly for Wales*, Welsh Office, April 1999).

In this formulation there is little anticipation that the administration might not have a majority in the Chamber. As has been much commented upon, many of the Assembly's difficulties in its opening months flowed from the unforeseen circumstance in which Labour failed to achieve an overall majority. Moreover, as was inevitably the case, in its opening period the Assembly had no precedents on which to call. The Presiding Officer was further drawn into controversy because of a decision he had taken to freely provide the Press and media with interviews explaining his views and decisions. As he put it, responding to the points of order that sought to defend his position, prior to the no confidence debate:

“I will say two things. First, when I was elected to this post, I considered carefully what my media relations policy should be. I decided to adopt a policy that I have continued to pursue at some cost to my officials. That policy is an open policy in the spirit of the new democracy that we are creating together in Cardiff Bay. I have responded to requests for interviews and comments on matters that are of relevance to the Assembly. Perhaps my comments are not always as felicitous as they might or should be. However, I try to maintain the dignity of the Assembly in those comments. I do this because we are in new territory. We do not have a precedent to which we can turn. In my rather too long experience in Westminster, it was often the case that Speakers I greatly admired would refer to precedent and, therefore, would not need to explain their conduct. We have no precedent. We are without precedent in the history of our country and the UK. It is appropriate therefore that we should explain, not only for the present but for the future, what our intentions are” (*Assembly Record*, 9 February).

Up to this point the impression had been, as reported in the media, that the Presiding Officer, would refuse to allow continued motions of no confidence from the opposition if they were unprepared to put up an alternative candidate for the First Secretaryship. In the event, the tabling of the ‘Nagasaki’ motion that would have revoked the First Secretary’s functions and his consequent relegation of responsibilities to his Cabinet colleagues had he been renominated, removed the threatened logjam and the difficult choice facing the Presiding Officer. However, it emerged later that the Lord Elis Thomas had been subjected to a great deal of pressure from the Executive to make clear in advance what his line would be.

What plainly annoyed the Presiding Officer was that this advice was not delivered discreetly to his office but as part of a collective view of the Executive, with both the Permanent Secretary Jon Shortridge and the First Secretary Alun Michael involved in its formulation. Not only that, he discovered that the advice was filtering back to the Wales Labour Part Executive, the office of the Secretary of State for Wales, Downing Street and Millbank. As *The Western Mail’s* Assembly Editor, Clive Betts, reported a few days after the no confidence vote:

“Lord Elis Thomas discovered he was at the receiving end of civil service briefings stating that he had made certain decisions - which would have been favourable towards Mr Michael and biased against the Opposition - when in fact he had yet to consider fully what to do at that stage of the battle to unseat the First Secretary” (*Western Mail*, 11 February).

In fact the Presiding Officer took alternative constitutional and legal advice, outwith the National Assembly, and resolved that Standing Orders did not oblige him to make a decision on the matter one way or the other. It was for him and him alone to establish a precedent, should that become necessary. In the event, of course, it did not. Nonetheless, the spat was not without its repercussions.

On the morning of the vote it became clear that Alun Michael could not rely on the support of all his Cabinet to sustain his renomination as First Secretary in the event of the no confidence vote going against him, as seemed inevitable. This, it seems, prompted the strategy that he would resign before the vote could be taken. This would, he must have calculated, place him in a stronger position in facing the Cabinet. However, there was still the prospect of a series of no confidence motions if he came before the Assembly the following day as Labour's fresh nomination. As a result of a meeting held with the Presiding Officer the previous day -- at which it is believed that both the Permanent Secretary Jon Shortridge, and the Counsel General Winston Roddick were present -- Michael believed Lord Elis Thomas was bent on allowing a succession of no confidence motions. This was made clear in a letter he had delivered by hand to Lord Elis Thomas some hours before the vote. It read as follows:

Dear Dafydd,

It is with deep regret that I have to write to question your intention to set a precedent which would be deeply prejudicial not just to me but to future First Secretaries.

As you know, I have supported and respected your role as Llywydd [Presiding Officer] and the way you have sought to operate in a non-political role despite your previous political commitment. The Presiding Officer, as you have said on many occasions, must be above politics.

Last week you spelt out to all Assembly Members your interpretation of Standing Orders and the process by which the Assembly would deal with a motion of 'no confidence'. If a motion of no confidence were tabled by Plaid Cymru, as heralded by Ieuan Wyn Jones, you said would proceed with the debate on Wednesday. If it were to succeed, you would invite a new motion from the Assembly to reconvene on Thursday to appoint a 'new' First Secretary.

For the avoidance of doubt we both know that 'new' does not mean different.

Should any further motion of 'no confidence' be tabled, you indicated that you would give time for 'cooling off'.

Previously, you have also indicated the difficulty you would face in the event of repeated tabling of 'no confidence' motions and repeated re-nominations. At what point do you refuse to accept a repetition of either?



On Tuesday, however, it became clear that you had taken a specific decision that you would accept that day a further ‘no confidence’ motion and deal with it on Thursday. I came to see you and set out clearly my view that such a ruling would be deeply prejudicial to the position of the new First Secretary – indeed to any new First Secretary.

Surely, the only course of action which will uphold the dignity of the National Assembly – and principles of fair play – is to follow the course of action you proposed last Friday. This would be to take the vote on the motion of ‘no confidence’ today followed by the election of the First Secretary and then for the Assembly to adjourn. Indeed, if there is no adjournment, it would appear that a no confidence motion is being used as a substitute for a confirmatory vote for the election, by acclaim, of a sole candidate for the post of First Secretary. The idea of a confirmatory vote was considered and ruled out by NAAG and the Standing Order Commissioners on the basis that the Assembly should be forced to elect a First Secretary rather than perpetuate a political vacuum.

For Plaid Cymru to vote down a First Secretary from the Labour Party while refusing to put forward any candidate of their own – and that is their clear intent – may be within Standing Orders but it is certainly an affront to the democratic process and will continue the process of turning the Assembly into a laughing stock. Many people are deeply concerned that you appear to have indicated an intent to break any cycle by coming down on the side of Plaid Cymru.

This No Confidence Motion is not about my alleged failure to secure extra funding from Central Government. It is a cynical use of the ‘Objective One’ issue to pursue a political ambition – to break the unity of the Labour Group and force the Labour Party to change its leader. I believe you should have no truck with it.

Yours sincerely,

Alun

The main issues highlighted here are (i) whether the Presiding Officer had, indeed, declared there would be a cooling off period of up to five or six days before proceeding with a further no confidence motion in the event of Alun Michael representing himself; and (ii) if so, why he changed his mind and decided to proceed almost immediately with a further vote. The previous Friday (4 February) Lord Elis Thomas had issued a Press statement on the *Possible Motion of No Confidence in the First Secretary*:

“1. If a Motion of No Confidence (MNC) in the First Secretary is tabled under Standing Order 6.4 the Presiding Officer intends to adopt the following procedures:

**Next Sitting Day:**

2. The MNC will be debated on the first sitting day after the tabling immediately following Assembly Questions. The Presiding Officer will allow a debate on the motion lasting 1 hour. The first name on the list of Members who have tabled will be called to propose the motion. The 3 party leaders will be called to speak for 10 minutes each and the First Secretary will be allowed 25 minutes in which to reply. A vote will then be held.

3. If the motion is carried the Presiding Officer will request that a procedural motion be proposed under Standing Order 6.16 to seek an adjournment of proceedings for 1 hour in order for the consequences of the resignation of the First Secretary as set out in Standing Orders 2.9 and 2.10 to take place.

4. The plenary will be reconvened after 1 hour for the remaining business to be considered.

5. If the following day is a Thursday the Presiding Officer will, before the close of proceedings, invite the Acting First Secretary to request the recall of the Assembly on the following day at 9.00 am under Standing Order 6.2.

### **Second Day**

6. The Assembly will be reconvened at 9.00 am and a roll-call vote will be conducted to elect a First Secretary in accordance with Standing Order 2.2 and 2.3. Any Member may be nominated except the Presiding Officer and the Deputy Presiding Officer” (Assembly website, Press Releases and News, [www.wales.gov.uk](http://www.wales.gov.uk)).

There is little room for interpretation here. It seems, therefore, that Alun Michael’s first proposition - that the Presiding Officer had originally intended to allow a cooling off period - was an interpretation propagated by the Executive in off-the-record briefings to the media. The Presiding Officer had never published a statement to this effect. It may be that at one stage he was inclined in this direction and subsequently changed his mind. But it hardly presents a constitutional issue on which his impartiality can be questioned, not least because the Standing Orders offer no guidance. The argument between Alun Michael and the Presiding Officer revolves around different interpretations of a meeting that took place between them the day before the No Confidence vote on Tuesday 8 February, when the First Secretary sought further clarification on the issue. In a letter responding to Alun Michael’s complaint, sent on 24 February, Elis Thomas denied that it was his decision to move immediately to a vote. Rather, he had said would leave it up to the Assembly itself to decide whether to do so, under Standing Order number 6.9 which states:

“At any plenary meeting, with the Presiding Officer’s permission previously obtained, a Member may propose that the Assembly should immediately consider a particular matter of urgent public importance.”

In the event no decision had to be made on these matters since Alun Michael himself circumvented one. He did this in the no confidence plenary session by handing in his resignation in a letter to the Presiding Officer shortly before he wound up his speech and while he was still on his feet. The Presiding Officer clearly caught by surprise,

then had to decide whether to proceed with a vote on the motion which the Opposition indicated they refused to withdraw. He apparently made the decision on the rather pedantic basis that since he had not had an opportunity to read the letter the First Secretary had not formally resigned, and so he proceeded with the vote. As he put it:

“In my view he hadn’t resigned because I had not received the letter” (Western Mail 10 February).

More fundamentally the episode highlighted an underlying constitutional issue that was bound to crop up sooner or later. This was whether it was sustainable for the Office of the Presiding Officer, the Committees and backbench Assembly members generally, to be served by the same civil service that serves the Executive. As an IWA report put it in May 1999:

It may prove difficult in practice for civil servants to remain loyal members of the Home Civil Service (with its emphasis on service to the Government of the day) whilst also providing a full and unbiased service to Assembly members who are critical of the Executive and in some cases not members of the majority. ... the Scottish Parliament has its own dedicated, independent internal administration, modelled on the system of clerks that operates within the House of Commons. One litmus test of the strength of the Assembly and its distance from the Executive may be whether pressure builds up during the first term for it, too, to have its own autonomous administration” (John Osmond, *Adrift But Afloat: The Civil Service and the National Assembly*, IWA, May 1999, page 18).

Prompted by the events around Alun Michael’s resignation there was a growing view in the Assembly that its Standing Orders would have to be revisited. There was no doubt, too, that the independence of the Office of the Presiding Officer together with the independence of advice given to backbench AMs, not least through the Assembly library, was also placed firmly on the agenda. The need was referred to by Dafydd Wigley in his letter to Rhodri Morgan (see above). It was also alluded to in the *Building Trust* memorandum sent to Rhodri Morgan by the Liberal Democrats (Appendix II) The Presiding Officer, himself, was reported to be determined that he should acquire the support of independent officials (Western Mail, 16 February). And indeed he very shortly made a first move in that direction. At the beginning of the plenary session on 29 February he announced that he had appointed David Lambert, currently on secondment from the Assembly to Cardiff University’s Law School, as his independent adviser. Formerly chief legal adviser at the old Welsh Office, Lambert is conducting research on devolution, including an analysis of the functions of the Assembly which is set out on the Internet on [www.welsh-legaldigest.co.uk](http://www.welsh-legaldigest.co.uk). His new post will occupy him some three days a week while the Assembly is in session. Part of his role will be to begin the important task of compiling the Welsh equivalent of the precedents laid down for the House of Commons in *Erskine May*.

Meanwhile, the episode did not deter the Presiding Officer from continuing to make public pronouncements on his views and role. For instance, in a major speech on *Wales - A New Constitution?* to the Welsh Governance Centre at Cardiff University

on 2 March, he responded to calls that had been made by Ron Davies, the Liberal Democrats and the Plaid Cymru Group that he should convene a Presiding Officer's Conference to expand the Assembly's powers. He said he believed there was a majority, perhaps a two-thirds majority, in the Assembly for it to assume full legislative powers, with some of the Conservative Group now in favour of extending the Assembly's powers. The 1997 Government of Wales Act which had established the Assembly did not represent a new constitutional settlement, he said. It was too close to the 1978 Wales Act for that. Rather, it was the merely the best that could be achieved in the circumstances of the time:

“It is not based on an clear legislative principle. It could be said to have elevated piecemeal development to an art form ... We are not at the beginning of a new constitution for Wales. We are at the beginning of the end of the old constitution ... We have the least that could be established at the time. We shouldn't say that a political fix is a national constitution. It is time we looked for more.”

He said the parties should come together in a conference under his chairmanship - equivalent to a Speaker's Conference in the House of Commons - and produce a draft Parliamentary Bill granting full legislative powers for the Assembly. This should be presented to the Secretary of State for Wales for him to promote in the Westminster Parliament. More than that, the Presiding Officer suggested that the Bill should be presented in the year leading to the next Assembly elections in May 2003 so that it would become a defining issue in that contest. And he added:

“It would become a democratic issue that would make Objective 1 a storm in the Assembly”.

## 4. POLICY DEVELOPMENTS

### (i) The Assembly's Draft Strategic Plan: *betterwales.com*

In January the National Assembly administration embarked on a three-month consultation process on its Strategic Plan for Wales, in effect its business plan for the country. It is advertised on a new Assembly website: *betterwales.com*. The aim is to get the Strategy agreed by the beginning of the financial year in April, when the Assembly begins steering its own budget. This means the Subject Committees of the Assembly - let alone outside organisations - will have to have their say very quickly if a full plenary debate, planned for late March, is to be fully informed.

The draft Plan scores high on worthy aspirations. It puts the 21st Century buzz concepts of *Sustainable Development*, *Social Inclusion*, and *Equal Opportunities* at its core and attempts to score policies in economic development, health, education and the rest according to how far they make improvements in these fields. The trouble is that the fields are so vast and woolly that benchmarking is all but useless. For example, *Sustainable Development* is defined in the Plan as "the creation of wealth whilst also promoting enduring, balanced and beneficial change."

On the Welsh economy the Plan says, "Knowledge-based companies - those which depend for their competitive advantage on the exploitation of know-how and creativity - will need to form a more important part of our economy. We need a higher birth rate, survival rate and growth rate of small and medium-sized enterprises, including in the social economy." As things stand this remains an aspiration with little concrete on how it is to be achieved. "Full use will be made of the unique opportunity provided by European funding ..." says the document, without addressing the vexed question of matching funds.

An Annex to the Plan lists the National Assembly's major strategies, related documents, and the dates when they are to be reviewed. It provides a useful summary of the policy processes underway and is reproduced here as Appendix III.

### (ii) The Committees

#### • Economic Development

The new Objective 1 programme continued to dominate the budget round and the work of the Economic Development Committee. As expected, no additional money had been forthcoming from the UK Treasury. Details made available by the Assembly's Financial Planning Division in response to a request from Lib-Dem leader Mike German revealed the extent of the level of European grants which remain to be paid to projects approved under the 1994-99 Programme (Library of the National Assembly for Wales, 7th Feb. 2000). European Regional Development Fund (ERDF) grants totalling up to £173.3m, will have to be paid for by the end of 2001 out of the Assembly's block grant. The Cabinet expect to pay out £50m of this total in

the financial year 2000-01, with the remainder to be paid during the 2001-02 financial year. These figures exclude any match-funding requirements that are to be met by the Assembly or its Sponsored Bodies. This has led to concerns that this ERDF “overhang” will put significant pressure on the Assembly’s budget, at a time when the much larger Objective 1 programme is beginning.

The Committee spent considerable time discussing the plans for the implementation of the Objective 1 programme. There was concern amongst Committee members that progress on setting up the administrative framework was slow. These concerns were heightened by European Commission's critique of the Single Programme Document.

There was debate over the size and composition of the Monitoring Committee. The proposed structure was that of a third public sector, a third private sector and a third voluntary / community sector. Concern was expressed that key organisations such as the Wales Tourist Board had not been proposed for inclusion. Officials replied by saying that trying to keep the numbers down within the Monitoring Committee, whilst maintaining balance, meant that some organisation would have to be left out. Members of the Committee suggested the possibility of having permanent non-voting advisors from bodies not included in the Committee. Officials said that they would look into this.

#### • **Pre-16 Education**

The issue which dominated the Committee's work over the period was that of performance management for teachers and the restructuring of teachers' pay. A consultation exercise launched in October 1999 on proposals for performance management arrangements for teachers in Wales had two elements:

- A draft of a performance management framework for teachers, encompassing an annual cycle of objective setting, monitoring and evaluation of teachers' performance - including provision to ensure that all teachers have personal objectives relating to both professional development and pupil progress, and a new duty on schools and governors to develop and implement a performance management policy.
- Proposals for new appraisal regulations to put these proposals into place.

The Committee indicated that any proposals should take account of the motion agreed by the Committee at its 1 December meeting, which had been sent formerly to the Assembly Secretary. In particular, the Committee resolved that there should be no direct link between examination results and teachers' pay. However, throughout the discussions on the issue, the Assembly Secretary Rosemary Butler reminded the Committee that the statutory responsibility for teachers' pay and conditions, both in Wales and England, rested with the Secretary of State for Education and Employment. It was not devolved to the Assembly. The recommendations of the School Teachers' Review Body, announced on 1 February, apply to both England and Wales. The consultation had not proposed that performance management reviews should be used to set teachers' pay.

The Review Body's recommendations include proposals to replace the existing pay spine with a new straightforward pay spine and a new upper pay range. Promotion to the upper pay range would be based on a specific performance assessment, which would apply both in England and Wales. The Department for Education and Employment sets the threshold assessment standards as they are standards for meeting a pay point - the Assembly has no statutory powers for setting standards relating to the award of pay points. The Assembly is responsible for performance management beyond the threshold and the associated system is for the Assembly to consider.

Proposals for a revised performance management framework tabled at the Committee's 1 March meeting, had a number of significant differences to the draft framework put out to consultation in October 1999, which reflected the opinions of the Committee and other consultees. A strong case for a change in Wales was made by the Welsh teacher unions (NUT, NAS, UWT, NAHT, Ucac and others) at a joint Press conference at the end of February. As the Secretary of NUT Cymru, Gethin Lewis put it:

“This is a chance for Rhodri Morgan’s administration to show that they have political backbone and are not willing to just toe the line of Millbank and Westminster. While we accept the fact that teachers’ pay and conditions are set by Dfee we do not see why the way teachers are assessed has to be the same and we are urging the Education Secretary Rosemary Butler to follow a different path to that of England. We see this as a real test of devolution” (*Western Mail*, 29 February).

#### • **Post 16 Education and Training**

In December 1999, the Committee produced its final report on the implementation of the Education and Training Action Group’s proposals. Whilst supporting the main recommendations of the ETAG report, it contained the following additions and amendments:

- Funding for sixth forms in schools to continue to be channelled via local education authorities.
- The National Council for Education and Training for Wales to establish regional offices and advisory panels.
- The needs of Welsh - medium education to be given more prominence.
- Proposals for a Welsh Baccalaureate to be considered within the qualifications framework.

The Committee also identified six key principles which it said should underpin the reform proposals:

1. Participation of business at all levels
2. Educational values to be paramount
3. Accessibility to tackle social exclusion
4. Flexibility of provision
5. Working towards a bilingual society

## 6. Vital importance of new technology

These proposed changes and principles were the outcome of the thorough consultation exercise that the Committee had conducted during the Autumn, in which it took oral and written evidence from 54 individuals and organisations. The Committee was keen to develop broad ownership of the proposals.

Since Christmas, the Committee's work has primarily focused on a review of Arts and Culture policies in Wales. The wide-ranging six months study, is reviewing the whole spectrum of arts and culture in relation to the performing and visual arts in Wales. It is looking at current public funding priorities for the arts in Wales and is considering the objectives of the Assembly in relation to the arts and the extent to which current policies meet these objectives. It is also considering the extent to which expenditure to the arts provides a platform for obtaining private sector and European funds. In addition to written and oral submissions in Committee, 'Roadshows' are being held throughout Wales to hear the views of key local players and members of the public. The Committee has appointed an independent Expert Adviser, Ceri Sherlock, to help with this review of the arts.

### • **Health and Social Services**

At its 16 February meeting, the Committee agreed that there was a need to look at the current NHS resource allocation formula used to allocate discretionary revenue funding for Hospital and Community and Family Health Services (HCFHS), and cash limited General Medical Services in Wales. This would lead to proposals for new and more appropriate formulae for the allocation of resources to these areas.

The Committee was told that although the current formula is relatively simple and provides health authorities with relatively stable financial planning framework, there are serious doubts as to whether it adequately reflects health needs and is in keeping with the Assembly requirement to ensure equity of access to health services in accordance with need and to reduce health inequalities by tackling the underlying causes of ill health and improving access. Furthermore, it is important that there is an appropriate formula for allocating resources to Local Health Groups as they become more established and assume greater financial responsibilities.

The Committee agreed that a small independently chaired Steering Group should be established in March, comprising representatives from each of the party groupings and senior Assembly and NHS officials, to oversee the review. The Steering Group should establish a working group between the National Assembly, NHS partner organisations and other interests (including patients). This approach would obviate the need for the Assembly to incur significant expenditure on a major review of the formulae, as the working group could build on the work being carried out elsewhere. England and Scotland have made substantial investments in formula reviews and some relevant work has already been undertaken in Wales. There is no provision within the Assembly's budget for 2000-01 to commission external work or to support a major review within the Assembly. Any costs incurred would have to be met from within the budgets for existing programmes.



The Committee has been overseeing the development of the proposals for establishing an Independent Children's Commissioner for Wales. The consultation exercise highlighted the following fundamental issues:

1. The extent to which the Commissioner's role should involve executive functions; the extent to which the post should investigate specific complaints, particularly relating to looked-after children, or whether the post should concentrate on more general profile-raising and investigative activities of issues relating to children.
2. The scope for overlap with the activities of other bodies, which increases with the amount of executive and case investigation work which the Commissioner does.
3. The accountability framework.

The Committee has given support to the view that the Commissioner should have statutory powers so that it is able to call organisations to account where children's rights are concerned. This would need to be provided for in a new Act of Parliament. The publication of the Waterhouse Report into child abuse in North Wales had added weight to the calls for the post to have statutory powers.

The issue of independence was also considered to be an important issue. If it were only possible for the Commissioner to exercise statutory powers through the Assembly, the office would not be independent. Representatives from Children in Wales suggested that ideally primary legislation should be in a discrete bill, not attached to one dealing with wider issues where the provisions would not be easily identified.

- **Environment and Local Government**

The Committee was the first of the six Subject Committees to submit a report to the full Assembly outlining the progress it had made towards fulfilling its work programme. The report noted the Committee has been working towards setting a firm set of priorities, namely:

- To improve the quality of and availability of housing in Wales, particularly social housing to help combat social exclusion. (the Committee's top priority).
- The protection and improvement of the Welsh environment, including the development of a waste strategy.
- To promote the delivery of high quality and cost-effective local government services within a framework of greater local accountability.
- The development and implementation of an integrated transport policy.
- The operation of a fair and efficient land use planning system.

In taking forward its work programme, the Committee aims to develop a more strategic approach, focusing in greater depth on a smaller number of priority issues. In the immediate future, it is undertaking two major policy reviews:

- A review of public transport policy

- A review of the policy of transferring local authority housing into community ownership.

- **Agriculture and Rural Development**

The Committee had agreed that dairy hygiene inspection charges should be removed due to the difficulties faced by the industry. The Cabinet agreed with the decision and had put money aside to fund the removal, but the legality of the removal of charges was being assessed by officials. Removal of the charges might be regarded as a state aid, which would discriminate against farmers in England. The Assembly could not remove the charges unilaterally - an application has to be made to the European Commission via the Ministry of Agriculture Fisheries and Food (MAFF). The committee agreed that the money which had been set aside in the 1999-2000 budget should be transferred to the Organic Aid Scheme. The Committee, however, unanimously passed a resolution reaffirming its commitment to lifting the dairy hygiene inspection charges. Although the preferred option was for both England and Wales to remove the charges, it was unlikely that MAFF would agree to lifting the ban in England, though Nick Brown, the UK's Agriculture Secretary, had agreed to facilitate an application from the Assembly to the EC for the lifting of the charges in Wales. The Committee was warned that securing EC support would be difficult.

At its meeting on the 9th February, the Committee Chair commented that the committee was being criticised for the failures with beef on the bone, the calf processing scheme and the dairy hygiene inspection charges, but that the criticism was unfair as the Committee was attempting to follow a distinctive Welsh line on these issues.

On the issue of agri-monetary compensation, the Committee was told that £85m had been made available to UK farmers. Christine Gwyther had written to Nick Brown urging him to make available the full amount of £450m, which was available from Europe. She noted, however, that due to the operation of the Fontainebleau Rebate, the likelihood of the Treasury making additional money available was slim. The Committee unanimously passed a resolution supporting Christine Gwyther in her representations on behalf of the industry to the UK government in order to access and draw down agri-monetary compensation for Welsh farmers.

## 5. ASSEMBLY SUBORDINATE LEGISLATION

In monitoring the Assembly, the temptation is to focus on ‘events’ to the exclusion of what does not happen, or of what happens only slowly or in a limited way. Yet matters that at first sight appear tedious may also be of the very essence of the constitutional development. Nowhere is this essential truth better illustrated than in the workings (or non-workings) of the Assembly legislative process.

Away from the glare of publicity, the Assembly legislative process has been trundling along, more or less slowly. Analysis reveals that in the first six months of operations, the Assembly made 56 statutory instruments, of which 26 were general orders (a rate of precisely one a week). In turn, many of the general orders have effectively been driven by the UK Government, following on new primary legislation such as the Local Government Act 1999, and, like much secondary legislation, have also been technical. Many of the fields in which the Assembly has competence have seen little or no legislative activity, for example the environment and planning and the social services.

Assembly General Orders: July 1999 to December 1999  
(by statutory instrument number)

2242 Education (school government) Regulations  
2243 Education (new schools) Regulations  
2633 Education (change of category of maintained schools) Regulations  
2641 Plant health (amendment) Order  
2800 New schools (admissions) Regulations  
2802 Education (school meals staff) Regulations  
2815 Local Government act 1999 (commencement) Order  
2816 Education (mathematics and science training incentive) Regulations  
2817 Education (teacher’s qualifications and health standards) Regulations  
2840 NHS (travelling expenses and remission of charges) (amendment) Regulations  
2841 NHS (optical charges and general ophthalmic services) (amendment) Regulations  
2862 Education (student fees) exceptions) Regulations  
2888 Education (school teacher appraisal) Regulations  
2893 Education (school admission appeals: code of practice) appointed day Order  
2935 Local authorities (calculation of council tax base) (amendment) Regulations  
3084 Home repair assistance (extension) Regulations  
3184 Health Act 1999 (commencement No. 1) Order  
3185 General Teaching Council for Wales (Constitution) (amendment) Regulations  
3337 Tir Gofal and organic farming (amendment) Regulations  
3439 Non-domestic rating contributions (amendment) Regulations  
3450 NHS Trusts (dissolution No. 2) Order  
3453 Central rating list Regulations  
3464 Beef bones (amendment) Regulations  
3468 Housing renewal grants (amendment) Regulations  
3469 Relocation grants (form of application) (amendment) Regulations  
3470 Housing renewal grants (prescribed form) (amendment) Regulations

As of the 29 February there are no general statutory instruments listed on the HMSO website as having been made by the Assembly this year.

As indicated in the previous Monitoring Report, there is a serious case of ‘devolution by default’, a separation of laws (from England) by reason not of creativity but of

inactivity. The output represents only a small proportion of the secondary legislation in which the Welsh Office was involved prior to devolution (some 500 instruments every year, the great majority applying to England and Wales and driven by the other Whitehall Departments). However, it is also worth noting that in the six months prior to the commencement of devolution the Secretary of State for Wales separately made some 65 general orders applying primarily or exclusively to the territory: more than twice the rate of output achieved by the Assembly in an equivalent time period. Such has been the legislative reality of Alun Michael's 'dynamic devolution'.

Efforts have been under way to improve the efficiency of Assembly law making. They involve a reordering of the three main routes for the making of general subordinate legislation. The 'full procedure', bristling with regulatory appraisal requirements which can include public consultation, and which could take 40-50 weeks to complete, has now been virtually abandoned. The 'urgency procedure', whereby the procedural protections including scrutiny for *vires* by the Legislation Committee are selectively disappplied, and which was invoked early on in the life of the Assembly, is also currently out of favour. It smacks too much of a simple transfer of law making powers from the Secretary of State for Wales to the Assembly Cabinet. This leaves the 'standard fast track procedure', which avoids regulatory appraisal and reference to and consideration by a Subject Committee. By tacit agreement of the parties it has now become the norm, with the aim of taking some five weeks for the Assembly to complete. A key feature is that the opportunity for debate in plenary before an Order is made has been preserved, together with scrutiny by the Legislation Committee.

All this is a pragmatic response to an early fit of enthusiasm in the construction of the scheme, based on provisions in the Government of Wales Act, which culminated in the lengthy and convoluted rules on the making of Assembly subordinate legislation that are included in Standing Order 22. It seems unlikely, however, to erase the phenomenon of 'devolution by default', such are the limited resources available to the devolved administration to make more than a limited amount of legislation. Whether it engenders legal challenge founded on the provisions of the Government of Wales Act, where use of the 'full' legislative procedure is clearly anticipated as being the norm(see s. 67), remains to be seen.

A fundamental requirement is the accessibility of the laws that the Assembly makes to the people of Wales. Although the general statutory instruments are made available on the HMSO web-site, this is not the case with local orders (many of which being traffic orders establish criminal offences), or with orders not made by statutory instruments, or indeed with circulars or guidance containing legal statements. The Assembly has not yet established a practice of publishing such documents. Whither transparency and the Rule of Law? Different but related is the issue of participation in the law-making process. A basic requirement here is obviously access to draft legislation. Apparently this is provided for Members via the Assembly's closed Intranet system, but the information is difficult to find on the official, open Internet site. The advantages enjoyed by 'insider' groups or lobbyists are in this way accentuated. Whither inclusiveness?

In conclusion, the legislation work has so far been insubstantial. Nine months on and Assembly Members still have not properly engaged with law making, which is after all a prime output function of government in its implementation of new policies. Notably Rhodri Morgan, in his new capacity of First Secretary, has said that he wants to see the Assembly becoming much more active in using its existing powers (*Western Mail*, 15 February 2000). If devolution is to be successfully re-launched then far more energy and application will need to be shown in the legislative field.

## **6. RELATIONS WITH WESTMINSTER AND WHITEHALL**

Assembly Members have been grappling with two fundamental issues associated with the model of executive devolution: first, the style and substance of Westminster legislation and thus the quality and extent of the Assembly's functions, including its own law-making powers; second, Assembly input into the primary legislative process. At one and the same time, the discussions have served to focus attention on the limitations of the devolutionary scheme and to foster some novel constitutional development.

### **(i) Allocation of Functions**

The immediate context is provided by the UK Government's new legislative programme. There are currently at least ten bills giving functions to the Assembly, chief among them the Local Government Bill, the Learning and Skills Bill, and the Transport Bill. This is a significant increase on the previous year when only five statutes, out of a total of over thirty, made provision for giving powers to the Assembly: the Adoption (Intercountry Aspects) Act, the Food Standards Act 1999, the Health Act 1999, the Local Government Act 1999 and the Water Industry Act 1999. Unfortunately, however, the new provisions show no general coherence in the distribution of powers as between London and Cardiff. Sometimes separate Parts of a Bill relate to Assembly functions, on other occasions the Assembly is given general equivalence to a Secretary of State's powers, and on other occasions again parallel powers are set out in particular clauses. (See for examples, respectively, Learning and Skills Bill Part 2; Local Government Bill, clause 84; Carers and Disabled Children Bill, clause 1). The Assembly continues to be given powers of very different width and depth depending on the Whitehall department which is responsible for presenting and guiding the Bill through Parliament.

To this effect, a point that has perhaps been underestimated is the extent to which the UK legislative programme is driven by individual Departments. The skeletal Office of the Secretary of State for Wales now faces an awesome task in representing Welsh interests in the ongoing primary legislative process. This is the not so subliminal message of a 'Devolution Guidance Note' on the role of the Office of the Secretary of State for Wales (one of a series of such notes that recently appeared on the Cabinet Office web-site):

“During the passage of a Bill through Parliament, the Secretary of State's officials will commission appropriate support; this could be from the Assembly or from the lead department. It should be noted that with one Minister and an interest in most Bills, the Secretary of State's department will need to look for flexibility in membership of standing committees.”

A related development is revision of the first general transfer order by which the Assembly has so far gained most of its powers (SI No. 672, 1998). As is well known,

this is a lengthy and complex document, the Assembly being empowered not by subject fields, but statute by statute, and often section by section. Since the exercise has involved roughly a third of current Ministerial functions contained in the statute book, it is not surprising to learn of drafting difficulties and some technical shortcomings. Another general transfer order has thus been necessary, which has largely involved additional transfers, but also – embarrassingly – some repatriation of functions, most notably powers under the Mental Health legislation relating to the detention and secure accommodation of offenders (SI No. 253, 2000; and see plenary debate, 25 January 2000). On the one hand, the process demonstrates the operation of a key constitutional ‘lock’ in the devolution legislation, the requirement in such circumstances of repatriation of Assembly consent to the making of the (UK) order (see s. 22(4) (b)). On the other hand, it serves to highlight once again the great complexity of functions visited on the Assembly by the choice of method of executive devolution by reference to the functions actually possessed by the Secretary of State for Wales immediately prior to the commencement of devolution.

## **(ii) The Assembly’s Response to the UK Government’s Legislative Programme 1999-2000**

The key plenary debate on Westminster legislation took place just a few days before Alun Michael’s resignation. As already explained in Section 1, the divisions inside the Labour Group were made clear, with only a minority of its Members giving wholehearted support to the UK Government’s legislative programme (see *Assembly Record*, plenary debate, 2 February 2000). The debate itself followed on the commitment to bring forward for Members’ approval the draft consolidated response of the (whole) Assembly to that programme and a protocol (to be agreed with the Secretary of State for Wales) setting out the ways in which the Assembly might suggest measures for inclusion in future programmes (see Assembly resolution 8 December 1999). Assembly Members were happy to resolve as follows:

‘The Assembly continues to support the principle that primary legislation affecting Wales should confer all appropriate functions on the Assembly in a flexible way and commits itself and the Cabinet, through the Subject Committees, to continue to press for this approach in all Government Bills’.

As previously mentioned, the draft consolidated response was prepared by officials on the basis of Members’ speeches in the two earlier plenary debates on the contents of the Queen’s Speech (30 November and 8 December). Effectively the response builds on the unique statutory duty on the Secretary of State for Wales to consult the Assembly on the UK Government’s legislative programme (Government of Wales Act, s. 31). However, moving beyond the issue of the way in which it had been done, Nick Bourne for the Conservatives cast doubt on the whole exercise:

“I do not think that the attempt - if I can so dignify it - to try to reflect the opinion of this Assembly can be made. We may have individual agreement on

some Bills and on some clauses of some Bills but it will not be a surprise that we are diametrically opposed on many of the issues at Westminster” Assembly *Record*, 2 February).

The question is squarely raised: will the party political divisions, exposed in the debate, become an annual ritual? Certainly, one cannot expect the Conservatives to readily approve Labour legislative proposals at Westminster. What is more interesting, as has already been remarked, is the extent to which the Labour Group in the Assembly will take its own its own line.

### **(iii) Protocol with the Secretary of State for Wales**

This was considered by the Assembly in its plenary debate on 2 February. There are commitments by the Secretary of State to consider all amendments to Bills put forward by the Assembly and to put all of its proposals on the Queen’s Speech and proposals relating to future legislation to the UK Cabinet Committee. The Assembly meanwhile will annually debate and approve a set of proposals - a kind of shadow Welsh Queen’s Speech -a process that will be entrenched in standing orders. The protocol, however, does not address the issue of a possible fast-track procedure at Westminster for distinctively Welsh primary legislation.

The protocol clearly recognises the need for the Assembly to be proactive at UK level: ‘a voice for Wales.’ Its practical worth obviously remains to be tested. As indicated, it begs the question of the institutional capacity both of the Assembly to prepare proposals and of the Office of Secretary of State for Wales to participate effectively across such a wide range of activity in the Whitehall and Westminster processes. Comments made by Ron Davies AM in the debate are also germane:

“As an Assembly, we can do something to influence central government, but difficult scenarios will arise ... First, when central government has an overloaded programme of its own. The Assembly will then make a bid for legislation to be included via the Secretary of State for Wales. Central government, understandably, will explain that it will have its own requirements and an election manifesto to complete; matters of priority will have arisen; it will legislate and the Assembly’s requests will have low priority.... The second difficult scenario is when the Assembly requests more legislation to be devolved to it and central Government, not wishing to go down the road to further devolution, demurs our request ... The third difficult scenario is when the Assembly has a political disagreement with the Westminster government because it wants to do something that central government is not prepared to accept due to a difference in policy....



Under those sets of circumstances, we are likely to find a degree of tension between ourselves - those of us who want to see devolution succeed and who view devolution as a process and want to take it forward - and those who perhaps feel that devolution has run its course and should not go any further. It is at that stage that we must look again at this protocol. Undoubtedly, we will then find out whether it gives us the strength, authority, power and the discretion that we want to see ...”(Assembly *Record*, 2 February).

In conclusion, dissatisfaction with the current legislative position can be seen as contributing to the sense of unease that has now culminated in the fall of Alun Michael. The legislative issue, however, will run and run, a point further underlined by the recent calls by Ron Davies and Dafydd Wigley for some kind of constitutional convention, in particular to consider the powers of the Assembly (*Western Mail*, 20 January and 15 February). Whether the allocation of functions and the general style and substance of Westminster legislation as regards the Assembly changes significantly will be a litmus test of developing attitudes in central government to Welsh devolution.

#### **(iv) The Welsh Affairs Committee**

A report on *European Structural Funds* was published by the Welsh Affairs Committee in the House of Commons on 17 February. This fully supported the position of the Opposition parties in the Assembly on the Objective 1 match funding issue, concluding:

“We urge the UK Government to respond swiftly to this Report by making a clear public commitment that it will provide Wales both with public expenditure cover for the anticipated European grants and also with the additional funding to meet in full the costs of the public sector match funding requirement” ((para. 37).

The report was immediately hailed by Plaid Cymru as vindication of its stance in pushing through the motion of no confidence in Alun Michael. Constitutionally, however, the main interest in the report was that among the evidence heard by Committee members was taken for the first time from the National Assembly - from Rhodri Morgan in his position as Economic Development Secretary, and Val Feld, Chair of the Economic Development Committee. At the beginning of the hearing with Val Feld (on 22 November 1999) the Welsh Affairs Committee Chair Martyn Jones MP, emphasised that they were not endeavouring to invade territory that was the Assembly’s responsibility. But he added:

“ ... we think really that we are the only game in town in terms of looking at an overall view of what the Assembly’s role is and also the role of Whitehall. We

are capable of doing that because that is the way the Committee has been set up , but as a Committee (and we have made this view known to the authorities within the House) that in future we would like to see a joint committee with members of the Assembly on the Committee as of right ..." (page 27).

And he noted that the Government "had looked kindly" on the notion of having one-off joint sessions, perhaps so that Assembly members could be involved in directly questioning Ministers and civil servants in departments other than the Wales Office.

## 7. RELATIONS WITH THE EUROPEAN UNION

Two significant tangible developments in relations with the EU occurred during the quarter. First was the appointment of a senior civil servant to head up the Assembly's representation in Brussels. At the same time a prestigious new location to house the Assembly's delegation in the European capital was identified.

It was announced on 29 February that Desmond Clifford, currently press spokesman for the First Secretary at the Assembly, together with a deputy, will be joining the staff of the United Kingdom Permanent Representation to the European Union (Ukrep). Much of the time, however, they will work out of the offices of the Wales European Centre in Brussels (the WEC), adding to its existing staff of 11. The WEC operates as a limited company with representatives on its board from mainly public sector organisations, including the WDA, Welsh Local Government Association, the TECs, and the University of Wales. It has recently been joined by the National Assembly itself which, therefore, will have a two-pronged route for representation in Brussels - directly through its secondment of officials to Ukrep, and via the WEC.

At the end of February the WEC announced that it was moving its offices from the present premises of an anonymous office block to a more prestigious, listed building: number 20 Rue Joseph II, a three-storey, century old town house occupying a striking position looking down the entire length of Rue de Commerce. Announcing the move the WEC's Director, Jos Gallacher, third of a string of Scots to hold the post, declared:

We face an entirely different task to the Scots, whose country is already well known. We need to be raising our profile, getting far more recognition that we are present in Brussels. We need to be banging the drum for Wales, to be flying the flag, which we intend to do from the first floor balcony. We took this building not just for its offices but to show the world that we are here" (*Western Mail*, 1 March ).

Within a few weeks of taking office as First Secretary Rhodri Morgan was in Brussels himself along with other members of the Assembly's European Committee, and with good reason. Earlier in the month the European Commission had issued a preliminary appraisal of the Assembly's Single Programming Document for the West Wales and the Valleys Objective 1 Region. This followed an initial, informal response from the Commission in December which said the SPD was flawed in many respects - not least in that it failed to recognise the distinctive character of the Valleys compared with rural west Wales and, more generally, lacked both specific content, broad vision, and sufficient clarity on how the programme would be delivered.

Now the Commission returned to the fray with specific reference to the thorny question of match funding:

"... the Commission needs to be satisfied that future financial resources will be able to provide public funding for the whole programme and cannot be satisfied that this will simply be reviewed in the forthcoming Comprehensive Spending Review. A commitment to this effect needs to be included in the final SPD" (EC Response, page 28).

“This document prompted the three Opposition parties in the Assembly to join together in issuing a press release urging the Commission’s response to be put at the top of the agenda of the Assembly’s Economic Development Committee. Dr Phil Williams, Plaid Cymru’s Economic Development spokesman was quoted:

On many of the critical points members of the Committee have proved to be correct and the Labour Executive have been totally wrong. Yet we have been shut out of the discussions. I am especially angry that members of the Labour Executive have suggested that the EC document is the same as the draft received in December. This is untrue. The present document is a response to a revised application submitted in February. Yet the Committee has never seen the revised application” (*Joint Statement on European Funding condemns Labour for by-passing Assembly again*, issued 28 February).

Alun Cairns, the Conservative spokesman for Economic Development, said:

“The sidelining of the Assembly over such an important issue is outrageous. It is clear that the whole Objective 1 submission is in a desperate state and it is essential that all members of the Committee are made aware of the facts, not just the Labour chairman and Cabinet” (*Ibid.*).

Michael German, Liberal Democrat Leader and member of the Economic Development Committee, said:

“This takes us back to the worst days of the Welsh Office, with crucial decisions being taken in secret. Meanwhile the people of Wales are becoming more and more suspicious that they are being sold a ‘funding fudge’. Gordon Brown won’t give way, and Europe is not prepared to let the UK Government make its own rules” (*Ibid.*)

The Objective 1 issue, therefore, was providing a classic case of an upper and lower tier of governance joining together to put pressure on the nation-state level in-between.

## 8. RELATIONS WITH LOCAL GOVERNMENT

The third meeting of the Partnership Council between the National Assembly and Local Government took place on 7 February. A full agenda included discussion of papers, available on the Assembly website, presented by the joint secretariat of the Assembly and the Welsh Local Government Association (WLGA) on the following topics:

- a draft Local Government Partnership Scheme
- report from the Task group on Better Health and Well-Being
- report on the Westminster Local Government Bill
- Joint NHS and Social Services Planning and Priorities Guidance
- Community Leadership and Community Planning
- a proposal for a Central Statistics Unit for Local Government in Wales

The Partnership Scheme, laid out in two parts, is intended to govern the relationship between the Assembly and all aspects of local government in Wales. The first part outlines how the Assembly's policies are hoped to enhance the effectiveness of local government; the second sets out the ground rules by which the Assembly can work together on a day-to-day basis. The paper concludes

“The agreement would represent a radical new departure for central-local government relations. Its successful implementation would give local authorities scope to manage their finances flexibly and without excessive intervention from the Assembly.”

The paper on *Better Health and Wellbeing* was a progress report on discussions held between officials from the WLGA and officials from the Chief Medical officers Group, and between representatives of the WLGA and the NHS with Health Secretary Jane Hutt. The aim is to establish 'a Start and Finish' working group to:

1. Examine the current role of local government, the NHS and other community alliance partner organisations in addressing the new public health and well-being agenda laid out in the Assembly's *Better Health, Better Wales* White Paper
2. Consider whether the policies/strategies being followed are adequately focused
3. Identify ways in which the contributions of each organisation can be enhanced.

The Paper on the Local Government Bill is essentially a briefing document on its contents. Significantly, however, on the central concern of future political management structures in local government it notes that the Assembly has the power to add to the menu of options identified in the Bill. These variously propose to separate the executive, scrutiny and representational roles of councillors as follows:

- a directly elected mayor, with a cabinet;

- a cabinet with a leader appointed by the cabinet; or
- a directly elected mayor with an officer - the council manager - appointed by the council.

The Paper notes that “the Assembly will decide in due course whether further models are appropriate for Wales.” (For an analysis of how the new political structures are currently emerging in Welsh local authorities see Rachel Ashworth and George Boyne, *Musical Chairs in our Town Halls*, *AGENDA*, IWA, Winter 2000).

## 9. RELATIONS WITH THE BUSINESS COMMUNITY

The outstanding issue to emerge during the quarter was the business world's unhappiness with the outcome of consultations on implementing the Assembly's Education and Training Action Plan. This entails the abolition of the Welsh Training and Enterprise Councils (TECs) and the re-distribution of their functions to a new Education and Training Council for Wales Business Connect, the WDA and the Local Authorities. CBI Wales has voiced concern that in the new system the views of business, well represented on the old TECs, will be diminished. The fear was strongly articulated by the new director general of the CBI, Digby Jones, at the end of January. At the root of his concern, he said, was a lack of business experience amongst the 60 Assembly Members. This had resulted in the ETAG proposal being weighted too much in favour of the educational sector:

“The Assembly has treated the issue like a political football and has disregarded business. Training is vital to the future of the Welsh economy and business involvement is the key if the country is to create more quality jobs in the future” (*Western Mail*, 29 January)

This view was rejected by Cynog Dafis, chair of the Post-16 Education Committee which oversaw the policy development. He said business would have a vital role to play in determining the pattern of work place training:

The schemes they prepare will be national schemes that will decide what the pattern of training provision will be in the regions. So the business voice will be very strong.” (*Western Mail*, 27 January)

Other unresolved issues between the Assembly and business were aired by the Assembly's newly appointed Business Partnership Adviser, Roger Thomas in a speech to the Institute of Welsh Affairs in mid February. These included:

- We need full integration of north, mid and south Wales business views - so that we do not replace the views of south east England with south east Wales.
- What are the structured linkages between Assembly Members and individual business in their constituencies or regions?
- Will we get the number of quality business people as volunteers that will be needed to form one-third of all the proposed Objective 1 and Objective 2 partnerships and the boards and committees of organisations like Council of Education and Training for Wales?
- Will we be able to find the funding to have proper secretariat support for Business Wales [the body representing the CBI, FSB, IoW, Chamber Wales, NFU, FUW and other employer organisations], something able to match the input on relevant issues of other interested parties, especially of those in the public sector? (speech to the Institute of Welsh Affairs, Cardiff, 18 February).

## 10. THE POLITICAL PARTIES

Alun Michael's resignation followed by the formation of the new administration presented all the parties in the Assembly with a new agenda and new challenges. Perhaps the most significant faced the Labour Group. It had to come to terms with the divisions within its ranks being laid bare for all to see and the emergence of a new balance of power. There was, of course, an anxiety on all sides to forge a new unity behind Rhodri Morgan - a unity that was displayed by the unanimous approval given to his accession, not just by the Group but the Welsh Executive as well.

How long would the unity last, however? Undoubtedly a majority in the Labour Group were Rhodri Morgan supporters from the outset and wished to see the Assembly develop into a more effective body. As Morgan and Mungham judge, at the end of their assessment of the fallout from the change of administration:

“The rejection of Alun Michael imparts a very clear signal to Millbank and Downing Street, namely that a new kind of politics is beginning to emerge in Wales, a politics no longer receptive to a command and control system in which the role of Welsh Labour is to implement decisions taken at head office. Inside the party initiative and authority are passing, slowly but surely, from unelected party officials to the elected Labour Group in the Assembly. Throughout Wales, not least in the once ultra-loyalist Valleys, traditional Labour voters will continue to experiment at the ballot box if their unpretentious hopes and aspirations go unheeded. What the advent of Rhodri Morgan as First Secretary signals above all, perhaps, is the birth of the Assembly as a self-consciously Welsh institution as distinct from a branch office of a prestigious London address, be it Westminster or Whitehall, Millbank or Downing Street” (Kevin Morgan and Geoff Mungham, *Redesigning Democracy: The Making of the Welsh Assembly*, Seren, forthcoming).

The acid test, as demanding as the hitherto bottom-line issue of Objective 1, will be whether the new Labour administration can forge a range of innovative policies in the bread-and-butter areas of health, education and economic development, that not only appeal across the Assembly itself but to the wider electorate as well.

That test simultaneously describes a potential dilemma for Plaid Cymru. For as was widely commented in the Press and media at the time, by being so instrumental in propelling Rhodri Morgan into the Assembly leadership the party may have simultaneously blighted its own electoral chances of achieving a majority in 2003. The more successful Labour is in making the Assembly work the greater its chances of holding on to power. However, Plaid Cymru took the apparently statesmanlike view that the long-term interests of the Assembly in evolving into an effective institution is more important than its own short-term electoral prospects. In reality, there is probably little difference between the two. Plaid Cymru's fortunes are too intimately intertwined with the national project that the Assembly embodies for there to be any other choice.

An on-going dilemma that the Plaid Cymru Group in the Assembly is wrestling with its attitude to coalition politics. Proportional representation and the electoral



arithmetic of Welsh politics suggest that sooner or later this will become inevitable. As the second largest party, and potentially in future the largest, sooner or later it is likely that it will be forced to make real choices in this area. Following the next Assembly election in 2003 the parties may be bunched closer together in terms of the number of seats they hold. If the largest party (Labour or Plaid Cymru) have total seats in the low twenties, a coalition may be forced on unwilling partners to enable the Executive to function effectively. That being so some in the Plaid Group are arguing that the party should offer a coalition now, even in the expectation that it will be rejected, in order to give it a stronger position in the event of it emerging as the largest party in the future.

For the Conservative Group in the Assembly the outcome was wholly positive. From the outset they have been the most combative of the opposition parties, wishing to play a classic opposition role. They had resorted, unsuccessfully, to a no confidence motion against Alun Michael the previous December following his refusal to acknowledge the censure motion passed against Agriculture Secretary Christine Gwyther (see the IWA's first *Monitoring Report*). Now they were seen to be instrumental in bringing a Labour administration down in Wales at the same time as embarrassing the Labour Government at Westminster. It chimed with their approach of wishing to separate the executive from the legislature, Westminster style, rather than become embroiled in collaborative arrangements, least of all any hint of coalition politics.

At the same time their role in the dramatic events, together with the relatively high media profile achieved by their leader Nick Bourne, played to their evident strategy of repositioning the Conservatives in Wales as a more distinctively Welsh Conservative Party. Doubtless, this endeavour was assisted by the Group removing the whip from Rod Richards, the former leader and a List Member for North Wales, for failing to comply with Group discipline. This event took place the day before the no confidence debate and was considerably overshadowed in terms of media attention as a result. Nonetheless, it was a significant moment. Rod Richards, especially during his period of leadership until his resignation the previous summer as a result of grievous bodily harm charge being brought against him by the police, had sought to highlight the Conservatives' unionist identity.

The Liberal Democrat Group in the Assembly may be in the trickiest position in the next period. Of all the parties they are warmest with regard to collaborative politics, indeed in some senses they are ideologically disposed towards it given their support for proportional representation. Due to their numbers, however, they are in a relatively weak position in the Assembly. Labour will be tempted to pursue a more emollient approach than hitherto, but one that falls far short of granting the Liberal Democrats a higher profile role than absolutely necessary. At the same time the Liberal Democrats are wary of having their identity as a distinct party diminished by too close an involvement with a party that is, currently at least, so unpopular in their rural strongholds.

## 11. PUBLIC ATTITUDES

The most concrete expression of public opinion during the Quarter under review was the Ceredigion Parliamentary by-election of 3 February. As discussed earlier, the result, in which Labour slipped from second to fourth place, reverberated back to events unfolding in the National Assembly. The results were as follows, with the 1997 general election figures beneath:

### **February 2000 (turnout 45.7%)**

Simon Thomas (Plaid Cymru)	10,716 (42.7%)
Mark Williams (Lib Dem)	5,768 (23%)
Paul Davies (Conservative)	4,138 (16.5%)
Maria Battle (Labour)	3,612 (14.4%)
John Bufton (UK Ind)	487 (1.9%)
John Davies (Ind Green)	289 (1%)
Martin Shipton (Wales on Sunday - Match Funding Now)	55 (0.2%)
Majority	4,948

### **1997 General Election (turnout 73.9%)**

Cynog Dafis (Plaid Cymru)	16,728 (41.6%)
R (Hag) Harris (Labour)	9,767 (24.3%)
Dai Davies (Lib Dem)	6,616 (16.5%)
Felix Aibel (Conservatives)	5,983 (14.9%)
John Leaney (Referendum Party)	1,092 (2.7%)
Majority	6,961

It was noticeable that the main issues in the campaign all resonated more with the National Assembly's responsibilities than with those of Whitehall and Westminster. In order of priority they were the rural crisis; problems of the health service, in particular the long-term future of Bronglais hospital in Aberystwyth; and the Objective One match funding issue. It was noteworthy, too, that the three British-based parties chose to attack Plaid Cymru for allegedly being more concerned with the National Assembly and neglecting its role at Westminster - claims strongly denied.

If voters in Westminster elections continue to be preoccupied with National Assembly issues, it could work to the disadvantage of Labour. Undoubtedly the low turn-out compared with the general election disproportionately affected Labour which saw its share of the poll fall from 24 to 14 per cent. If this were replicated across Wales in the next general election at least four Labour seats would be in jeopardy: Conwy (to the Liberal Democrats or Plaid), Clwyd West (to the Conservatives), Carmarthen East (to Plaid), and Monmouth (to the Conservatives).

On the other hand, the first all-Wales opinion polls published since the elections for the National Assembly in May 1999, carried out by NOP for HTV in January and

March 2000 (sample 1007), shows Labour's support holding up well compared with 1997 (see Table 1). At the same time support for Plaid Cymru is being sustained in the National Assembly. The survey also appears to reinforce assessments made at the time of the National Assembly elections, that the electorate in Wales are clearly differentiating between the levels of representation now available to them and that quite distinct patterns of voting may be emerging.

When asked in March how they would vote if a general election for Westminster were held tomorrow – 50 per cent stated that they would vote Labour, 20 per cent Conservative, 16 per cent Plaid Cymru and 12 per cent Liberal Democrat. Table 1 shows how these results compare with the January poll and the May 1997 general election result.

**Table 1**

• **Voting Intention if a General Election for Westminster were held tomorrow?**

	March poll	January poll	1997 General Election
Labour	50	56	55
Conservative	20	21	20
Plaid Cymru	16	13	10
Lib Dem	12	8	12
Other parties	2	3	3

The new duality of Welsh political loyalties becomes apparent when the sample were asked how they would vote if an election were to be held for the National Assembly. The March poll suggests that Labour would gain 43 per cent of the votes and Plaid Cymru 31 per cent, whilst the Conservatives would be reduced to 14 per cent and the Liberal Democrats 10 per cent. These results compare the outcome of the last Assembly election when the Labour Party averaged 37 per cent over the constituency and regional ballots, Plaid Cymru 30 per cent, the Conservatives 16 per cent and the Liberal Democrats 13 per cent (see Table 2).

**Table 2**

• **Voting Intention if an election for the National Assembly for Wales were held tomorrow?**

	March 2000 Poll	January 2000 Poll	1999 Assembly Election
Labour	43	45	37
Plaid Cymru	31	33	30
Conservative	14	13	16
Lib Dem	10	6	13
Other parties	2	3	5

The survey question only asked for a single response, instead of distinguishing between the two votes that electors may cast in elections to the Assembly. The

evidence from last May however, showed that, in aggregate at least, there was little difference between the distribution of support for parties between the overall constituency vote and those cast for the regional lists. Notwithstanding this important distinction, the increase in support for the Labour Party may suggest that one or two of the surprising losses to Plaid Cymru could be regained. Alternatively, the increase in support for Labour may merely result in larger majorities in the seats that are presently held.

The poll data does confirm however, that voters in Wales are able to draw a clear distinction between the National Assembly and the House of Commons and are developing distinctly separate voting patterns for each level of government. In particular, this allows Plaid Cymru, the Party of Wales, to compete effectively within the new Welsh dimension of politics. This duality implicitly recognising that the electorate's decision in a Westminster election is overlaid with considerations of which party will form the Government, or who might make the best Prime Minister, where Plaid Cymru cannot genuinely compete with the major parties.

The poll also asked electors how good a job the National Assembly was doing for Wales. Opinion was divided, with 45 per cent responding positively compared with 41 per cent who were less convinced. Amongst intending party supporters however, the pattern is more clear cut with potential Labour and Plaid Cymru voters in particular, showing a greater commitment to the National Assembly, perhaps in spite of its record to date (see Table 3). Tables 4 to 9 give responses to other questions asked in the poll

**Table 3**

- Overall, how good a job do you think the National Assembly is doing for Wales? Would you say ...

	ALL	Con	Assembly vote		
			Lab	Lib D	Plaid
Very good	4	3	5	-	6
Fairly good	42	32	57	39	41
Fairly poor	28	28	21	42	37
Or very poor	16	27	10	12	9
Don't know	9	10	7	6	7

### Summary

	Now	January 2000
Good	46	46
Poor	44	41
Don't know	9	13

**Table 4**

- **If there were a further referendum on the National Assembly for Wales, would you vote ‘Yes’ to keep the Assembly or ‘No’ to abolish it?**

	ALL	Con	Assembly vote		
			Lab	Lib D	Plaid
Yes, keep it	53	32	64	45	76
No, abolish it	36	59	26	49	19
Don’t know	11	9	10	6	5

**Adjusted figures:**

	Now	Referendum 1997
Yes	59.5%	50.3%
No	40.4%	49.7%

**Table 5**

- **As you might know, the Labour Party does not have a majority of seats in the National Assembly. Which ONE of these ways of working would you prefer the Labour Party adopt?**

	ALL	Con	Assembly vote		
			Lab	Lib D	Plaid
Continue as a single party minority administration	10	11	15	1	7
Have a formal coalition with the Liberal Democrats	10	8	12	25	4
Have a formal coalition with Plaid Cymru	15	8	18	2	25
Or for all parties to co-operate informally?	59	66	53	71	62
None of these / don’t know	6	7	2	1	2

**Table 6**

- **Thinking now about the change in the leadership of the National Assembly, for each of the following, do you think they have emerged with their reputation enhanced or diminished or about the same as before?**

Enhanced/diminished/about the same/don’t know	+VE enhanced	-VE diminished	= about the same	DK don’t know
The Labour Party <u>in Wales</u>	9	46	40	5

The Assembly as a whole	12	32	48	8
The Opposition parties	13	21	54	11
Alun Michael	5	52	27	16
Rhodri Morgan	49	3	37	11
The Presiding Officer, Dafydd Elis Thomas	11	15	47	28
Tony Blair	10	51	33	6
Wales as a whole	18	22	53	7

**Table 7**

- **Were the Opposition parties right to combine to force Alun Michael out of office for not securing a guarantee of matched funding for Objective One in Wales?**

	ALL	Con	Assembly vote		
			Lab	Lib D	Plaid
Yes	62	72	51	64	76
No	23	20	34	23	15
Don't know	14	7	15	14	8

**Table 8**

- **Under Rhodri Morgan, do you think Wales is now more or less likely to receive the necessary matching funds from the Treasury to maximise the EU money available for economic development or will it not make any difference?**

	ALL	Con	Assembly vote		
			Lab	Lib D	Plaid
More likely	41	35	47	34	50
Less likely	6	9	3	8	4
Make no difference	44	50	42	49	39
Don't know	9	6	7	9	7

**Table 9**

- **Are you for or against the National Assembly for Wales**

For	45
Against	26
Not Sure	28

A Scotsman ICM poll of 500 people across Wales, published on 21 February reinforced many of these messages, as Tables 10 to 14 demonstrate:

**Table 10**

- **From what you have seen or heard, do you think the Assembly has achieved a lot, a little, or nothing at all for Wales?**

A lot	4
A little	40
Nothing at all	48
Don't know	8

**Table 11**

- **Thinking about the Welsh Assembly in practice, including the individuals and parties that run it, do you think it is good for Wales, bad for Wales or makes no difference either way?**

Good	36
Bad	19
Made no difference	37

**Table 12**

- **Do you feel that devolution has failed or do you feel it has been a success in Wales?**

Success	25
Failure	42
Don't know	33

**Table 13**

- **How satisfied were you with the job Alun Michael did as First Secretary?**

Very or quite satisfied	25
Not very or not at all satisfied	56

**Table 14**

- **Do you think Rhodri Morgan will do a better or job as First Secretary than Alun Michael?**

Better	64
Worse	5
Don't know	31

On the other hand the Scotsman poll indicated that most people would opt for the Assembly to have greater powers, equivalent to the Scottish Parliament, as shown in Table 15:

**Table 15**

- **Thinking about the running of Wales as a whole, which one of the following would you most like to see?**

Wales being independent of England and Scotland but part of the EU	11
Wales remaining part of the UK, but with its own devolved Assembly as at present	27
Wales remaining part of the UK but with its own devolved Parliament with tax varying powers	30
Wales remaining part of the UK but with no devolved Assembly or Parliament	25



## 12. PRESS AND MEDIA

The motion of no confidence and resignation of Alun Michael brought the National Assembly under the concentrated gaze of the London Press and media for the first time. London journalists descended in large numbers, greatly adding to the sense of drama that built up around the events. Indeed, Welsh radio and television gave coverage to the coverage, so to speak, frequently turning to the visitors from across the border for their impressions, not just of the politics underway, but of the venue itself in Cardiff Bay.

The resignation prompted front-page treatment in the London broadsheets, often accompanied by editorials. However, the main focus of attention was the impact in London itself, and especially at Westminster. Alun Michael's dramatic resignation took place while Tony Blair was on his feet during Prime Minister's Question Time in the House of Commons. Blair was plainly discomfited. The news was relayed to him instantaneously by the Opposition (via mobile phones and beepers) that 'his man in Wales' had just fallen on his sword. As the headline on Matthew Parris' political sketch in the *Times* put it, "Blair wobbles as his party is out-bleeped", while the *Telegraph's* headline was "Blair is caught off message as Michael quits (10 February). *The Guardian* headlined: "Labour chaos as Welsh Labour quits"; the *Independent*: "Blair is forced to concede defeat in Wales - In the end the 'poodle' jumped before he was pushed. But the political pack still got their kill" (9 February).

There was much argument subsequently about whether the Prime Minister knew in advance whether his First Minister in Wales was intent on resignation. Undeniably, however, the a sense of disarray was visibly and dramatically portrayed on television. There was no doubt either that the main interest of the London Press and media was the backwash Welsh events were having in London, with Blair appearing to loose his grip on devolution. There was also much interest in the precedent Wales might set for the London mayoral contest. As the *Guardian* leader the following day *A Lieutenant Departs* put it:

"... if London tries to install a puppet, the people will rebel" (*Guardian*, 10 February)

Earlier in the week, writing in *The Times*, the Scottish commentator Magnus Linklater, observed:

"... how you build a coalition around a leader who has lost credibility is not in the text book of constitutional reform ... It is an object lesson for central government in how not to interfere. Power retained, it seems, has proved a less workable proposition than power devolved" (*Times*, 8 February).

There were, however, some reflections on the impact in Wales itself. An editorial in the *Times* judged that

"Mr Michael has not only united his opponents against him but inspired the call for further powers to be transferred to Cardiff" (*Times*, 9 February)

And the Telegraph reflected, in a leader column headed “Welsh National Soap Opera”:

“It may seem strange for a Unionist paper such as this to suggest more power for the Welsh Assembly -- to raise its own money, for instance. Since no-one seems happy with it in its current, powerless form, that however, would appear to be the only way forward.”

Coverage in the domestic Press was more detailed but little more illuminating as to the background story that was going on. In terms of uncovering background the *Western Mail* distinguished itself mainly in drawing attention to the role and dilemmas of the Presiding Officer, with Assembly Editor Clive Betts being especially assiduous in pursuing this strand of the story. The *Welsh Mirror* was remarkable in its uncritical support for Alun Michael, constantly appearing as the immediate mouthpiece for the Millbank spin machine. Banner front-page headlines through the week grew increasingly hysterical as the no confidence vote grew closer. On Monday it announced

“Assembly Gears up for Week of Chaos” (7 February)

On Tuesday it was triumphant:

“Brown to the Rescue: Chancellor Rides in to Assembly Row to Save Alun Michael’s Skin” (8 February)

The justification for this headline came with a line in the story that the Chancellor had “hinted Wales was heading for a big boost in Government spending in the summer.” However, *The Western Mail* drew the direct opposite interpretation. It headlined its front-page story: “Chancellor Seals Michael’s Fate”. Underneath it reported:

“The Chancellor repeated the Government’s promise that Wales would not be let down over match funding for Objective One. But crucially, he failed to satisfy Plaid Cymru’s demands that if he wanted it to drop plans to vote down Mr Michael he should release the extra funds for the Treasury” (8 February).

The following day, the morning of the no confidence vote, the *Welsh Mirror* surpassed itself, filling its front page with the words above a thundering editorial:

“Plaid Cymru, the Lib Dems and the Tories are ready to ruin Wales because they are ... FOOLS” (9 February).

Beyond this level of reportage, there was little analysis in the press, whether London or Cardiff-based, to explain what was going on behind the scenes. In particular, no newspaper picked up the full extent of the growing divisions inside the Labour Group. The key debate on the Westminster Government’s legislative programme a week earlier went virtually unnoticed. Neither did the press comprehend, let alone report, the significance of the ‘Nagasaki’ motion tabled to deny Alun Michael power of delegation to his Cabinet if he attempted to resubmit himself for re-election as First Secretary.

Commentary on these matters was left to Sunday papers after the event the following weekend. Martin Shipton, *Wales on Sunday's* Chief Reporter, explored the extent to which Alun Michael had lost touch with his own Group, leading him to make "one of the worst political miscalculations of modern times" in thinking he might be renominated as First Secretary (*Wales on Sunday*, 13 February). Andy McSmith, the *Observer's* Chief Political Correspondent, came closest to revealing the full background behind Michael's resignation. His story "Bitter last hours of Blair loyalist" (*Observer*, 13 February) was the first Press or media account of the divisions inside the Labour Group, the significance of the threatened 'Nagasaki' motion, and the role of the Liberal Democrats in refusing Labour's apparent last minute readiness to contemplate a coalition.

That the Welsh Press or media generally did not catch up on these matters, let alone fully understand or interpret them is a commentary on the current state of Welsh political news coverage and reporting. Television and radio was especially deficient in this regard, given the relatively large resources available to it. The nightly news programmes provided a breathless, on the whole superficial coverage of events as the day of the no confidence vote came and went. Reports were invariably reactive. Interviews were generally with the party leaders with little attempt made to uncover the stresses and strains that were placing tension on all the parties (but especially Labour) by interviewing, for example, backbench AMs. There was also overuse of the device of newsroom presenters interviewing their own reporters -- sometimes in bad weather immediately outside the Assembly building, when the newsroom itself was inside. The increasing practice of presenters talking to their own reporters in an effort to explain political events increasingly comes across as lazy and irrelevant. In this instance, however, the journalists were hampered by the evident reluctance of backbench AMs to talk 'on the record'.

The specialist political programmes fared little better. Both BBC Wales and HTV put their weekly half-hour political programmes out on Thursday evenings, a timing that on this occasion presented a perfect opportunity to unpack and analyse the events of the no confidence week. BBC Wales' *The Point* went over the ground but revealed little that was new. HTV's *Sharp End* was anything but. It lead for the first half of the programme on a transport story that had no relevance to one of most momentous weeks in Welsh political history. Towards the end of the programme it did visit the issue but in the form of a one-to-one interview with Paul Starling, Political Editor of the *Welsh Mirror*.

On the other hand the no confidence vote revealed a large appetite amongst the Welsh television audience for political news, certainly when dramatic events are unfolding. For example, BBC Wales' flagship news programme *Wales Today*, broadcasting between 6.30 and 7.00 pm, achieved one of the highest recorded ratings for any Welsh programme on the day of Alun Michael's resignation. Some 450,000 viewers tuned in to the programme, out of a total Welsh population of just under three million people.

## **APPENDIX I**

### **POWERSHARING OPTIONS**

**Paper presented to the National Assembly Labour Group by Val Feld AM, February 2000**

At the last National Assembly Labour Group Executive meeting it was agreed that a paper outlining a range of options for power sharing would assist discussions in the Group, to find a way forward that brings stability to the Assembly and enables us to deliver tangible progress. The Group may have additional ideas.

#### **1. Bridging Committee (Option One)**

5 Labour, 3 Plaid, 2 Cons, 2 Libs  
+ two committee chairs depending on agenda  
+ AS depending on issue (from within Lab 5)

**Purpose** (as defined by First Secretary):

- To prepare ground for plenary on strategic policy issues that encompass more than one committee
- To consider and update corporate plan
- To take forward budget process
- To stimulate role of subject committees in policy development

**Pros:**

- Offers a place where all party leaders and senior members come together and therefore can negotiate progress (and policy?)
- Pull together four arms of Assembly and therefore facilitates planning and co-ordination
- If it meets in public reduces behind scenes deals (hopefully)

**Cons:**

- If it has settled membership risks undermining role of Cabinet and committees, plenary and Labour Group
- Likely to make business committee less important (is that a problem?)
- Difficult to pin down function – (if its policy making risks more exclusion of Labour group) would need to be very clear about expectations and remit
- Cross party agreement on strategic issues could undermine plenary, by pre-empting debate
- Reduces likelihood of joint committee meetings

#### **2. Bridging committee (Option Two):**

All cabinet (9),  
All committee chairs (6),  
All business managers (4),  
All party leaders (4),  
+ some additional members from other parties to create party balance?

**Purpose:**

To plan forward business, agree a programme with common ground between parties, identify areas of difficulty  
Frequency of meeting: once every 2 months initially  
No plenary powers.

**Pros:**

- As above – offers a place for those charged with setting and implementing policy to plan process, identify priorities, identify common ground and problem areas
- Pulls together four arms of Assembly, facilitates planning and co-ordination
- Avoids duplication and repetition of work
- Reduces behind the scenes deals
- Could meet in public and open out decision making process
- Less risk of under-cutting existing structure if it deals with process and planning only

**Cons:**

- Could be unwieldy
- Still some risk of circumventing other structures
- Would need to be clear about remit
- Might not gel if only every two months

**3. Joint Programme and task groups (could be additional to option 2 Bridging committee)**

- a. Joint programme developed for term of Assembly by officers of four (or three?) parties going through Manifestos, finding common policy areas and through existing processes build programme around these.
- b. More difficult but important areas to be tackled by establishing ‘Task and Finish’ groups with AS, Chairs and interested others (with party balance) to agree policy/programme to bring to Plenary. (Labour group to establish policy groups as per standing orders to feed in).

**Pros:**

- Enables Assembly business to proceed without issue by issue negotiation
- Allows results to come through so that Assembly gains credibility

- Responds to evident concern of electorate that political parties work together and ‘stop bickering’
- Labour can still lead and develop our agenda but show we can work with others
- Policies not in line with GB policy less likely to be seen as Welsh Labour being subversive but arising from consensus and debate to meet Welsh needs
- Facilitates development and thinking around policies for Wales and allows for inclusion of all Labour AMs

**Cons:**

- Could mean compromise on some key Labour objectives
- Gives other parties profile and experience
- Makes it more difficult to agree labour plans and follow through
- Could cause difficulty in relations with local government, unions or other long term partners

**4. Formal Coalition with one other party**

This would mean seats in Cabinet and joint policy development and planning.

**Pros:**

- Gives stability if it works
- Enables long term policy and planning to take place
- Demonstrates Welsh Labour can work with others

**Cons:**

- Gives clear long term profile and experience to one other party
- Puts other two parties into clear Opposition role
- Traditional approach to politics – government/opposition
- Major problems if it collapses
- Ties Welsh Labour in people’s minds with another party
- Others as above about policy agenda and relations with Westminster party

**5. Power-sharing Cabinet:**

Party balanced as Northern Ireland with members of all parties according to representation – for first term of Assembly.

**Pros:**

- Government of National unity for first term to get Assembly working
- Response to aspirations of people that political parties should work together

- Can lead to stability (would probably need proposal 3 as well to create and manage programme)
- Strong voice for Wales in arguing for resources from Westminster
- Labour would still be largest group

**Cons:**

- A lot of negotiating as at present – might be hard to make progress
- Gives other parties even higher profile and experience
- Likelihood of conflict with Westminster
- Confusing and difficult for civil servants

## **APPENDIX II**

### **BUILDING TRUST**

#### **Welsh Liberal Democrat Proposals for establishing a co-operative culture in the National Assembly**

##### **1. Introduction**

Before the referendum on devolution and before even the 1997 General Election, Liberal Democrats in Wales called for a Convention to bring together all those parties – political and non-political – who were committed to devolution. The Convention would help to prepare proposals which could command widespread support. It would also establish trusting relationships between otherwise competing politicians.

Our calls were never answered in Wales. In Scotland, however, there was such a Convention. And, apart from the obvious partnership government which is now thriving there, there has been real benefit gained by the mutual understanding generated of different politicians' views.

On his election as First Secretary, Rhodri Morgan referred to the need to establish a political culture where there is trust and understanding. He was right to do so. Because it is the failure to build this political culture which has led to the failure to achieve 'inclusive politics'.

Building trust cannot be achieved on the back of any one policy or any one politician. It can only be achieved over time through decision-making processes which are open, transparent and built from the bottom up.

Liberal Democrats therefore believe that, to build trust in our Assembly, there will have to be a restructuring of the Assembly itself based on the following principles:

- Freedom of Information
- Devolution of decision-making
- Sharing of Power

Only after such a restructuring will trust be built. And it is only at this stage that it would be possible to build a programme of government.

##### **2. Proposals for Revised Assembly Protocol on Access to Information**

The Assembly is a corporate body and therefore all Assembly Members need appropriate access to information and staff support in order to properly discharge their responsibilities.

###### **2.1 Members Access to Information**



A presumption in favour of disclosure of information to Assembly Members needs to be established. The onus should be on those who wish not to disclose information to show why it should be withheld.

Any refusal to release information must pass an agreed test of “substantial harm”. “Substantial harm” has been defined by the Scottish Parliament in the following way: “For a public authority to withhold certain information it would have to conclude that disclosure would result in prejudice which is real, actual and of significant substance. Even if it is considered that disclosure would result in substantial prejudice, this information would still be released if it was in the public interest to do so”.

Specifically, Assembly Members should have access to the advice and/or information on which policy and Executive decisions are based.

Library staff need to have the authority to obtain information requested by Assembly Members, subject to the “substantial harm” criteria above.

Multiparty press conferences should be held on major issues, with Assembly Members having prior access to press briefings.

## **2.2 Public Access to Information**

As in the case of information for Assembly Members, there needs to be a presumption in favour of disclosure, unless “substantial harm” can be proven.

In particular, there needs to be a review of the following exemption categories in the Assembly’s **Code of Practice on Public Access to Information Part II**:

- **Category 6** “Information where disclosure is likely to compromise the effectiveness of the Assembly Cabinet’s deliberative process, or that of Assembly Secretaries or Assembly staff in carrying out functions delegated to them”. In this context, a proper definition of “compromise the effectiveness of” needs to be provided, to ensure that this clause does not simply prevent ordinary Assembly Members’ access to the background material to Executive decisions and policy.
- **Category 7** “Information supplied in confidence by, or consisting of confidential correspondence with, other public authorities or other organisations or individuals”. The “substantial harm” test needs to be applied to ensure that information is not being kept confidential simply because its disclosure could prove embarrassing or inconvenient.
- **Category 9** “Information which may be withheld under existing legislation”. In simple terms, the fact that information “may be withheld” does not mean it should be. Further clarification of this category is needed.

## **2.3 Members’ Access to Staff Support**

The balance of staff support as defined in the **Protocol for Relationships Between Assembly Members and Assembly Staff** need to change in favour of ordinary

Assembly Members. Point 3.2 of this **Protocol** currently states that “the Assembly’s staff serve *the Assembly as a whole*”, but goes on to say that “the majority of the Assembly’s staff – the staff working in policy groups – will work for the *Assembly Secretaries and the Assembly Cabinet as a whole*”. This protocol needs to be reworded to take into account the needs of Assembly Members as key players in the corporate body.

Specifically, there should be greater support to help ordinary Assembly Members in the drafting of motions and subordinate legislation.

Committee Chairs need greater civil service staff support to enable them to carry out their scrutiny functions properly. Without this increased support Chairs do not have time to access much of the information they need to scrutinise. Committee Chairs often carry out a public function which would otherwise be carried out by Assembly Secretaries, and the burden of this extra work needs to be recognised.

### **3. Revising Standing Orders to devolve powers**

#### **3.1 Strengthening the Subject Committees**

There is good work being done in the Subject Committees and politicians of all parties are working together and building alliances on issues where they agree.

However, the Executive has ridden roughshod over the committees on a number of occasions – beef-on-the-bone and performance related pay for teachers are the two most obvious examples – and we are keen to re-balance the powers so this should not happen again.

The role of the Subject Committees should be strengthened in terms of both policy formation and their ability to scrutinise the Executive. This should be achieved by revising Standing Order 9 to more clearly define their role.

In addition, Standing Order 5 should be revised to add provision for Subject Committees to have the power to place items on the plenary agenda and to ensure that time is set aside in the agenda for this.

#### **3.2 Opening out the Assembly’s Business**

Standing Order 5 should be revised to give the Business Committee the power to determine the Business Statement rather than the Business Secretary.

There should also be an increase in the debate time available for all parties compared with that available to the Executive.

#### **3.3 Majority votes**

Standing Order 6 should be revised to give the effect that majority votes in plenary sessions will be binding on cabinet members, and that they will be required to come back within a specific time limit with a timetable for implementation.

Standing Order 8 should be amended to accord the same status to majority votes in Subject Committees, on issues within the remit of the committee, subject to subsequent confirmation by plenary. This confirmatory vote should take place within a specified time period.

### **3.4 Regional committees**

Standing order 10 should be revised to strengthen the role of Regional Committees in order to decentralise power within Wales. Mechanisms should be drawn up to enable the Regional Committees to have greater input into the policy development process and be consulted on the regional aspects of policy issues before they are agreed in Plenary.

### **3.5. QUANGOS**

A review should be undertaken of the constitution, duties and membership of all Assembly Sponsored Public Bodies (QUANGOS) to assess their effectiveness and efficiency, and to ensure clear and direct lines of accountability to the elected representatives of the Welsh people. This review should be conducted with a view to reducing the number of ASPBs in order to enhance democratic accountability in public life in Wales

### **3.6 Links across the British Isles**

New protocols should be drawn up to establish better links with the other assemblies and parliaments throughout the British Isles, through the Council of the Isles.

### **3.7 Black and minority ethnic communities**

A partnership council should be established incorporating members of black and minority ethnic communities and Assembly Members.

## APPENDIX III

### ANNEX 2 TO THE NATIONAL ASSEMBLY DRAFT NATIONAL PLAN

#### Our major strategies

1. In developing our plan we have taken advantage of the first class work that has predated the creation of the Assembly, including strategies such as *Pathway to Prosperity*, *Building Excellent Schools Together*, *Better Health*, *Better Wales* and the Social Services White Paper *Building for the Future*. The draft *National Development Strategy* (NEDS - task force version) has been developed in tandem with *A Better Wales*. Our scheme for promoting *sustainable development* and the Action Plans for *Equal Opportunities* and *Social Inclusion* will be finalised over the next few months. *A Better Wales* will provide the framework within which existing strategies and plans such as these will be reviewed and revised and will inform the development of future strategies.

2. It is important for everyone to know what major strategies and policy documents remain valid; when they will be reviewed and revised; and what other strategies are being commissioned. In all cases progress reports on their implementation will be made to the relevant Assembly Committee.

#### Our major themes

Schemes & action plans	Published	Reviewed
Equal Opportunities Action Plan	mid-2000	Annually
Sustainable Development Scheme	mid-2000	Annually
Social Inclusion Action Plan	mid-2000	Annually

#### Priority Areas

Strategies and action plans	Published	Reviewed
<b>Better, stronger economy:</b> <ul style="list-style-type: none"> <li>Pathway to Prosperity</li> <li>National Economic Development Strategy (NEDS): Assembly edition</li> <li>Information Age Strategy</li> <li>Energy Framework Strategy</li> <li>Farming for the Future (consultation document)</li> </ul>	July 1998 Mid-2000 2000-01 2000-01 July 1999	To be replaced by NEDS Annually, at least Annually Annually To be taken account of in the Rural Development Plan
<b>Better opportunities for learning:</b> <ul style="list-style-type: none"> <li>Building Excellent Schools Together</li> <li>The BEST for Special Education</li> <li>Learning is for Everyone</li> <li>Shaping the Future for Special Education: an Action Programme for Wales</li> <li>The BEST for Teaching and Learning</li> </ul>	July 1997 October 1997 April 1998 January 1999 January 1999	One off document One off document One off document One off document One off document
<b>Better health and well being:</b>	October 1998	Every 2 years

<ul style="list-style-type: none"> <li>• Better Health, Better Wales</li> <li>• Putting Patients First</li> <li>• Quality Care and Clinical Excellence</li> <li>• NHS Human Resources Strategy</li> <li>• NHS Corporate Plan</li> <li>• Primary Care Strategy</li> <li>• Smoking Kills, Tobacco White Paper</li> <li>• Developing the use of health impact assessment in Wales</li>   <li>• Sexual Health Strategy (as consultation document)</li> <li>• Health Promotion strategy (as consultation document)</li> <li>• Building for the Future</li> <li>• The Carers Strategy in Wales</li> <li>• Review of all Wales Mental Health Strategy</li> <li>• Child &amp; Adolescent Mental Health Strategy</li> <li>• Refocused Substance Misuse Strategy</li> <li>• Better Information, Better Health</li> <li>• Realising the Potential - Strategic Framework for Nursing Midwifery &amp; Health Visiting</li> </ul>	<p>January 1998  July 1998  End 2000  1 June 2000  end 2000  December 98  November 99</p> <p>January 2000  January 2000  March 1999  June 2000  Spring 2000  Spring 2000  Early 2000  March 1999  August 1999</p>	<p>White Paper  Annually  Annually  Annually  Annually  Annually  On going development  Annually  Annually  White Paper  Annually  Annually  Annually  Annually  Annually  Annually  Annually</p>
<p><b>Better quality of life:</b></p> <ul style="list-style-type: none"> <li>• Transporting Wales into the Future</li> <li>• Driving Wales Forward</li> <li>• The UK climate change programme</li> <li>• The Air Quality Strategy for England, Scotland, Wales &amp; Northern Ireland</li> </ul>	<p>July 1998  1998  January 2000  January 2000</p>	<p>Annually  2002  Not decided yet  Not decide yet</p>
<p><b>Better, simpler government:</b></p> <ul style="list-style-type: none"> <li>• Delivering Better Government</li> <li>• Children’s &amp; Young People’s Strategy</li> <li>• Planning guidance (Wales) Planning Policy (1st Revision)</li> </ul>	<p>March 2000  Autumn 2000  April 1999</p>	<p>Annually  Annually  2000-20001</p>