

A Legislative and Financial role for Stormont: Breaking the Deadlock

(Tuesday 24 January 2006)

The context

Since October 2002, the Northern Ireland Assembly has been suspended, following the 'spy scandal', and the Castlereagh and Columbia escapades which robbed the Assembly and its Executive of public confidence. Even following elections in November 2003 we do not have a functioning Assembly.

As a result of this continuing inability of Government and the parties to resolve the crisis, the general public is more sceptical than ever about politics and politicians.

In part this is due to the fact that Assembly Members continue to receive most of their salaries and allowances although unable to deliver the full range of services for which purpose they were elected.

It is not just a matter of salaries, even though they catch the headlines. The costs involved are largely due to the Assembly staff and structures, and establishment expenses. But even worse is the public spectacle of 108 elected representatives unable to perform the full range of their statutory duties because of political deadlock. This is a corrosive influence on the democratic process.

Drift must be ended

It is the view of the Ulster Unionist Party that the Prime Minister must not let this drift continue. He must know that some parties would be quite happy to facilitate this sham process as it puts off the day when they must take some key decisions.

Tony Blair said at Lancaster House in June 2004 that he would lack credibility if he continued to claim that more work was necessary to achieve agreement after all this time, and the status quo would be allowed to continue. The Ulster Unionist Party believes that the Prime Minister was right to say this, and it is up to him to ensure that there is a positive outcome that brings the current suspension to an end, without rewarding those who have consistently failed to honour their obligations.

A new way forward

Since his 'acts of completion' speech on 16th October 2002, following the Assembly suspension, in which the Prime Minister set out what was required from all the participants, we have belatedly had a positive response from republicanism on decommissioning. Characteristically, this was done without the confidence building visibility that was requested, and the IRA continues to exist, albeit in a 'different mode.' Nevertheless there has undoubtedly been progress, even if this was undermined by Alec Reid's intemperate remarks. The remarks of Gerry Adams to the effect that 'the war is over' are another example of belated progress.

Loyalists have begun to realise that things are changing, and the end of the UVF/LVF feud and the subsequent disbandment of the LVF are welcome steps.

Further IMC reports in January and April 2006, if positive and accompanied by information from other sources on criminality, are eagerly awaited.

However, we cannot under-estimate the damage republicans have done to the ability of the pro-Union community to tolerate an all-inclusive Executive. It is immense and deep seated. The current stream of concessions to republicans is re-enforcing this view.

This fact has led us to consider what steps HMG could now take to break the deadlock, see the ending of suspension and provide the public and the taxpayer with a proper service and value for money.

MLAs and legislation

MLA stands for Member of the Legislative Assembly. In Scotland and Wales different notations were made for members of devolved Institutions. In Scotland their devolved representatives are described as MSPs (Members of the Scottish Parliament) and in Wales AMs (Assembly Members).

The one thing that stands out in these descriptions is that at Stormont the emphasis is placed on the Member's legislative role. A legislator is a law maker. It is law-making that allows public policy to be implemented.

The Ulster Unionist Party has reached the view that it is untenable for us to emerge from talks early in 2006 without there being a decision to give the Assembly a meaningful statutory role in the governance of Northern Ireland.

We are proposing that given the Government's current inability to re-instate the Executive, the Assembly should be allowed to exercise its legislative and financial powers as before, but with the Secretary of State and his Ministers continuing to administer the Departments, pending a transition to full devolution.

Departments regularly seek changes in the law to implement public policy. Presently this is done by the undemocratic Orders in Council at Westminster, where the government introduces the measure and that is followed by a ninety minute debate in the House of Commons. No amendments are possible. This process could be replaced by a proper legislative process, with Bills being introduced at Stormont and properly scrutinised by the representatives of the people who will be directly affected by the legislation.

This is a separation of powers model not unlike the relationship between the American Executive (the President of the United States and his Cabinet) and the American Congress.

To those who might be sceptical as to how the administrative and legislative functions can be split, it can be argued that if it is good enough for the most powerful nation on earth then it should be possible, as a short term measure, for a small region with a population of only 1.6 millions!

The Assembly Committees can do much valuable work. This includes policy development, the initiation of legislation and enquiries as appropriate.

Finance

We believe that the Assembly should have its role in relation to the block grant restored. This is a huge task in itself, but it would give real power to the Assembly. The Ulster Unionist Party is not interested in the Assembly resuming as a talking shop.

As in the pre suspension period, the Finance and Appropriation Bills would be introduced, debated in committee and on the floor of the Assembly. The relevant provisions of the 1998 Northern Ireland Act would apply.

Conflict

What would happen if a conflict existed between Stormont Castle and the Assembly over legislation or money?

Conflict in a democracy is not necessarily a bad thing, and is part and parcel of the process. Under devolution in Wales, the Welsh Assembly Government has responsibility for administration, with legislation primarily provided by Westminster. In the United States the President and his Cabinet negotiate with the Congress on legislative and budgetary matters, even though it might be controlled by a different party. The president has a veto over legislation. What makes them succeed is the desire to serve the public and pressure to see that services are delivered to those who need them.

In a situation where Stormont is a regional Assembly within the United Kingdom, Westminster will always be able to break a deadlock should one arise.

NIO Ministers and the Assembly.

What would the role of Ministers be in relation to the Assembly? Ministers will continue to be answerable to Parliament, but instead of seeking legislation and Departmental budgets from Westminster, they would send their proposals to the Assembly. At the end of the day, the Secretary of State and the Assembly, through the usual channels, can agree what protocols to establish in relation to these short-term circumstances. It would clearly be impossible for NIO Ministers to devote the same time to the Assembly as devolved Ministers, and their responsibility to Parliament will mean that they could only be questioned there, except when they might be addressing an Assembly Committee or introducing legislation.

With goodwill there should not be too much difficulty, and a welcome degree of accountability can be provided.

The option to ask Parliament to include Northern Ireland in UK legislation, even on transferred matters, still exists, and the previous Executive did ask for this to be done when it was sensible to do so.

There is a wonderful opportunity to introduce much needed legislation on a range of subjects which cannot happen at the moment because of lack of Parliamentary time. There is also growing concern that local politicians need to be grasping the nettle of many social and economic matters, instead of having unsuitable solutions imposed on Northern Ireland by Direct Rule Ministers.

Replacement

These proposals are an attempt to put in place immediately a functioning Assembly with a meaningful role in the governance of Northern Ireland as a replacement for unfettered Direct Rule. Many of the roles previously exercised by the Assembly would resume, but as there is political deadlock on the formation of an Executive, it allows the maximum devolution to occur without blocking all political progress.

The ability of the Assembly to look into other subject areas that might be devolved in the future would be undiminished, and it seems to us that a working Institution will begin to regain the respect of the public and the long suffering and generous taxpayer. Furthermore, a better atmosphere would be created for full devolution to happen as Members would begin to work

together to foster the interests of their constituents. Ongoing political negotiation will be easier with all the politicians in the one place, and time will allow the creation of public confidence that is so obviously lacking in the intentions of some of the parties.

Handling and implementation.

The Prime Minister and Bertie Ahern have indicated that there will be a major effort to 'get the Institutions up and running in 2006.' This being so, and with the Assembly due to be re-elected in 2007 (alongside likely elections to the Irish parliament in the same year), 2006 will be the only realistic opportunity to start the restoration of devolution process before 2008. Ulster Unionists therefore propose the following handling plan.

Early in 2006, negotiations are held to seek consensus on the restoration of the legislative and financial functions of the Northern Ireland Assembly. As the Assembly is due to be re-elected in May 2007, and legislation will be needed to provide for the modifications referred to above, we propose that a sunset clause is inserted in this legislation to provide for the ending of this process to coincide with the dissolution of the Assembly in April 2007.

It is the view of the Ulster Unionist Party that after this temporary period, the 1998 Legislation (including any alterations that might be negotiated to it in the meantime) should be allowed to take its course. If at that stage it is not possible to sustain full devolution then it would be in the public interest to accept that reality, and proceed to wind up the Assembly.

This would put a floor in the process and a specific timetable in place. It will then be up to the parties to make their decisions, following consultation with the electorate at the elections in 2007.