

PROCEDURAL CONSEQUENCES OF DEVOLUTION
- the debate in the Northern Ireland Assembly

Introduction

This essay focuses on a debate that took place within the autonomous legislative government body of Northern Ireland Assembly. The debate's main issue was how the devolution of power (from UK) affects the procedures of Northern Irish parliamentary work – what is the 'paradigm' in which the new legislation is formed and how its formation is regulated. On this essay I analyse the way the different sides of the debate (*pro & contra*) view the political environment – their view being dependent on how they understand the past and the future (*temporal analysis*). I use an excerpt of this debate taking place on November 9th, 1998 as the basis of my analysis.

Background of Northern Ireland

To begin analysing the claims on sovereignty and the political situation in Northern Ireland (to which I will refer, from time to time, with the acronym NI), one must first understand the contingency in which the debate takes place. Throughout history the Irish people have succumbed to 'their place in the sun' in United Kingdom's geographical armpit, but the early 20th century brought along the chance of a free and united Republic of Ireland. Eventually 'free' was won at the cost of 'united': Ireland as integrated part of the United Kingdom was to be turned into two autonomous territories, the Southern and Northern Ireland. Due to the fierce independence movement, however, only Northern Ireland ever came into existence – the southern autonomous region became a free state known as *Ireland* today.

Conflict by its very meaning is in the nature of the entity called 'Northern Ireland'. On the one hand the conflict is quite 'fresh', having taken place in modern times and still present in the living memory, while on the other hand it has its roots in ancient times and centuries long history of power struggle, subjugation and warfare. Being a member of the Northern Ireland community means being a member of (this) conflict. This reflects to NI's own parliament: it has had various roles, periods in its timeline have had a variety of activity, ranging from active legislation and administration to total suspension, and at one point it even ceased to exist. It was once known as 'Parliament of Northern

Ireland', but has been since renamed as 'Northern Ireland Assembly' (or NIA). And when the Hon. Members of Parliament or Committee speak, they speak in today's terms and of today's issues (*Kairos*, the current time of action) but they draw their inspiration and motives from the historically rich background (*Chronos*, chronological and linear time).

Stormont and Westminster

The Parliament of United Kingdom is often called Westminster after the Westminster Palace where British parliamentary work takes place. In similar fashion the NI parliament is often referred to as Stormont, since the parliamentary buildings are situated in the Stormont area of Belfast. This analogy is an interesting example of how the NI parliamentary procedure, form and manner derive from their British equivalents. Of course the Irish tradition and influence (from the south) have given Northern Ireland Assembly its own specific 'flavor', but their effect has not been profound since judicial restrictions over Stormont are still ultimately governed by Westminster.

The most critical concept, when defining the relationship between Stormont and Westminster, is *devolution*. United Kingdom is not a federal union of separate states by constitution, but instead the Westminster parliament has given in (*devolved*) power in certain issues to another government bodies such as NIA and Scottish Parliament. In administrative sense this can also be seen as *delegating* power, trusting regional authorities to handle local issues with the additional benefit of transferring the burden of responsibility alongside. The power of NIA devolves from Westminster, this is a fact, but there are three key questions to be answered: what is the volume and magnitude of this devolved power, to what end can we call a political entity 'sovereign' and is the dependency and subordination to Westminster permanent? Potential answers to these questions have been thoroughly discussed in the 'Procedural Consequences of Devolution' – debate.

The Unionist approach

From the unionists' (or loyalists') point of view the procedural consequences are not only administrative, but also legislative advances towards parliamentary emendation of the democratic deficit in Northern Ireland: “*the effective reality of devolution*” (Mr Foster, UUP, pg 3). They feel that they are subordinate to the sovereignty

of Westminster, but still hold hope for a real decision-making parliament of their own within UK. Westminster is the sovereign parliament and Stormont only a devolved parliament, and there should be no reason “*to dilute the power and authority of the sovereign Parliament at Westminster*” (Rev William McCrea, DUP, pg 7). They also emphasise the financial aspect: money (and thus, power) to act comes from London, why to sever this lifeline? “*The day after devolution happens, if it does, power will still reside, technically and legally, at Westminster*” (Mr P Robinson, DUP, pg 21-22).

On a sideline of the debate, the efficiency and necessity of even exercising any devolved power in NI was questioned. The report compiled by the Ad Hoc Committee was a long, expensive and even frustrating process, and some saw that “*a competent lawyer, had he been furnished with the relevant material, could have reached the same conclusions in half a day*” (Mr McCartney, UKPUP, pg 11). The parliamentary debate in Northern Ireland is desperately aimed to produce a consensus – a result which would, under the given circumstances (some members still 'clinging on to hope for united Ireland'), be impossible to achieve. Arguments are backed by the constitution, and since it does not guarantee autonomy to NI, it can never hope to be a truly autonomous region within the EU nor would there be any reason to distance NI's decision making (“*devolved – not divorced*”) from the close supervision of British Parliament. “*Northern Ireland is part of the United Kingdom and will remain part of the United Kingdom (...) this situation is permanent*” (Mr McCartney, UKPUP, pg 12). Any other interpretation should be considered a false claim fabricated by those who wish to see NI with no future.

The Nationalist approach

The nationalists and republicans feel that achieving true consensus on anything within NIA is “*an interesting political experiment*” (Mr A Maginness, SDLP, pg 5); but does such consensus produce any substance or instead just formal, empty words? They wish that the political centre of gravity would (and would've) shifted more strongly from London to Belfast – Westminster still holds the right to intervene even with NIA's internal committee work, and sometimes even choosing the topics to be discussed can be more important than the discussion themselves. The question of sovereignty is brought to the table from another point of view: if UK has willingly handed over parts of its sovereignty

to the government bodies of European Union, then how can Westminster's sovereignty be considered unquestionable? *"Sovereignty as such, in the latter part of the twentieth century, does not exist"* (Mr A Maginness, SDLP, pg 15). Up to a certain degree both the unionists and the nationalists can agree, that Westminster retains the powers to legislate on any subject throughout the United Kingdom – the question is, can Northern Ireland's 'participation' in UK be considered only temporary? If so, then perhaps there's still a faint possibility of rejoining Republic of Ireland: *"sovereignty no longer rests totally with Westminster. Sovereignty is now shared with Dublin"* (Mr Molloy, Sinn Féin, pg 24).

When comparing the state of NI with other autonomous governing systems within UK, the nationalists see a much greater difference than their unionist counterparts: *"...profoundly distinguish this Assembly from what is planned for Scotland, Wales and, indeed, England – something with which the Unionists in the Committee refused to deal"* (Mrs Nelis, Sinn Féin, pg 10). One step towards the full devolution of powers to NIA has already been taken and there exists a *"necessity to equip those to whom power has been devolved with the necessary authority to exercise it"* (Mr Close, APNI, pg 10). In the context of British Isles, this devolution could be considered *"as a first step towards federalism, towards confederalism or towards subsidiarity"* (Ms Morrice, NICW, pg 14), subsidiarity meaning that matters ought to be handled by the smallest, lowest or least centralized competent authority. *"Not only is power being devolved from Westminster to Belfast, it has already been devolved upwards from Westminster to Brussels"* (Ms Morrice, NICW, pg 15).

History written by the victors

It is particularly interesting how both sides of the debate build their arguments upon historical events and the very same history can work as a premise for either side. The most modern history, of course, determines who are to be seen as 'victors', who as 'defeated', but this does not restrict either side from using historical background in their parliamentary rhetoric. By understanding both of these ways of interpreting history, we see how both *pro & contra* can be equally justified. It also sheds some light onto how the opposing parties can view the procedural consequences of devolution so very differently.

The unionists draw from the closeness and superiority of United Kingdom in

the context of British Isles, how England ruled over other tribes and lands. From this point of view it is the well deserved right of the British to govern over their neighboring island and keep it out of harm's way. That is why Stormont is always below Westminster, Ireland below United Kingdom, and the 'scraps dropped from the British table' are actually acts of grace – the justified sovereign devolving power when it could just as well control everything by force.

Then again, the nationalists see that the celtic peoples have yet to meet a compassionate oppressor. Their metaphors in speech and symbols come from the glory days of Irish kingdoms, the medieval conquests on British soil and the rebellion against British imperialism in modern history. Their view of history is full of struggle, defending against invaders and fighting for freedom – all with a just cause. Devolution of power does not mean that it's time to give up, the struggle's over. It means a breach in the 'impregnable fort of Britain', into which even more force must be applied if the whole fort is to be crushed down.

The direly longed for consensus

Eventually, the report prepared by the Ad Hoc Committee on the Procedural Consequences of Devolution was approved and agreed to be forwarded to Westminster. Even after the fierce debate over the details and the obvious differences of opinion over some contents of the report, the Northern Ireland Assembly agreed to give the report its 'full blessing', unanimously. “*The substance of the report has not been agreed – there was an absence of consensus*” (Mr McElduff, Sinn Féin, pg 20). As if parliamentarism required consensus to work – after all, by its very nature the parliament is a field of *dissensus*, a cacophony of different opinions shouted out trying to swing the minds of the audience towards their own. But to the NIA consensus (or at least an image of it) is the most highly acclaimed goal in parliamentary work.

It may have something to do with the unorthodox parliamentary setting of NIA: besides *pro & contra* there is also a third party in the background, United Kingdom (and to some extent even fourth, Republic of Ireland). No matter what the topic discussed, there is almost always something that the nationalists and the unionists can agree upon: the increase of power for local authorities or the increase of budget, to mention a few. It is in

the best interest of both sides that the Assembly works, and thus co-operation becomes inevitable. *Divide et impera*, divide and conquer, is a method of control for the third (and the fourth) party. To avoid this, both the nationalists and the unionists have an intense thirst for reaching consensus, even at the cost of the matter at hand itself. As long as Northern Ireland can show up as strong and united, there is a foundation on top of which the opposing sides can hope to build anything, no matter what their preferences.

The question is, what comes then? After we have 'strong Northern Ireland standing united', the conflict truly begins. At one end of the rope a group is pulling NI further away from United Kingdom's influence, but here again they come at crossroads: to lose autonomy and reunite with Ireland or perhaps continue towards independence? On the other end is a group pulling NI closer to United Kingdom, yet wary of losing Stormont's power completely to Westminster they do not pull at full strength. To the nationalists a fight for freedom is a fact; their rhetoric wells up from the contingency of fear and oppression. The unionists long for the 'good old days', when no-good rabble could not threaten the lawful order and the natural way of things. Both see their way as the best course of action, both want to carry out things that further their own interests and yet, they both believe their way would be the best for all, even the opposition.