

## **What is a Legislative Assembly for, and how does it work?**

In stable, peaceful parts of the world it is easy to forget why we have parliaments – places where representatives of the community talk (and also listen) to each other. Such places are sometimes criticized as being ‘just a talking shop’. Perhaps it is not fully appreciated that talking is in a very real sense the alternative to violence. In Northern Ireland we have lived through thirty years during which political differences were expressed through violent actions rather than words. Violence is an alternative to talking in any community, but this is most obvious in those places where there are deep divisions. There are important questions about why such deep divisions exist in our community but this is not the place to explore them. What is beyond doubt is that there are such divisions and that they have led to serious and prolonged inter and intra-communal violence. Politics is not so much the way that we agree across the gulf of such divisions, but rather the way in which we can express our disagreements without killing each other. Bringing the Troubles in Northern Ireland to an end involved a great deal of work to construct a Talks Process and ultimately an Agreement on political structures where differences could be addressed and power shared.

Aggression is a powerful instinct and the capacity of ‘talking’ to express and contain the violent expression of that aggression depends on the robustness of the structures within which the talking takes place. It must be possible to release the powerful feelings behind the nascent violence with sufficient passion to give convincing expression to them without slipping into violent behaviour or provoking a violent response from the other. This combination of containment and expression is the purpose of the conventions and Standing Orders of an Assembly. The Speaker is there to make sure that these conventions and Standing Orders are protected and observed in such a way that their underlying purpose is fulfilled. In so far as changes in the communal context or maturity of the assembly demand development of new or amended instruments it is the Speaker’s role to try to ensure that these changes are introduced in such a way as to allow the same expression and containment of powerful emotions.

If the representatives of the people are unable to give vent to the emotions of their community, the people will lose faith in their representatives or the political process to address their needs. If those same elected officials act *only* as a valve for feelings of anger and envy, then a descent into acting violently on those feelings becomes increasingly likely. Elected Members have to fulfil a complex and subtle role between these two poles. In the same way the Speaker must enable Members to express concerns sufficiently strongly to have them heard, but provide a containing environment for the inevitability of conflicting expressions.

There are a number of elements to this work.

The first is the observance of the Standing Orders. Without some rules, chaos reigns, and violence breaks out. But those rules only have effect if

they have the respect of the Members. The best way to ensure this is for Members to construct their own agreed rules. The Northern Ireland Assembly started with a flimsy set of Initial Standing Orders, but the Members moved fairly quickly to negotiate their own rather more substantial arrangements. These are modified from time to time by agreement, as seems necessary. Agreement in this as in so many contexts has to be cross-community, in order for there to be shared confidence in the agreed rules.

Agreed rules are a necessary but not a sufficient requirement of working together with differences. Some aspects of working together require a degree of subtlety and flexibility that is hard to encompass in written rules. These requirements can often be accommodated in conventions or mutual understandings. What sort of problem might require this flexibility? In the normal course of events the Speaker may call Members who represent each separate party, trying overall in any debate to maintain both the diversity of parties and the relative sizes of their groups. This convention is not only reasonable but necessary if the range of views is to be expressed. A circumstance however might arise where a terrible tragedy occurred in a particular community or constituency, and the feelings generated might be such that some variation in this arrangement might be important, for example an over-representation of nationalist speakers might be appropriate where a nationalist constituency had suffered particularly. If speaking arrangements are covered by a clear rule, such flexibility is not possible. If it is covered by a convention, then the speaker can negotiate (formally or informally) some flexibility to accommodate the emotional, and therefore political, needs of the moment, going gently beyond the usual confinements. These modifications may have value, not just for that moment, but as guide for future conduct, and they become precedents. This volume sets out many rulings by the Speaker which explain and expand on Standing Orders, set down Conventions and give guidance for the future conduct of the business.

Even the flexibility of Conventions needs to be enlarged, for the implementation of the rules requires a fluid appreciation of the emotional tone of the chamber at any moment – the ‘sense of the House’. There are times of tension and high drama where an expression and experience of the anxiety of the community is essential if the Assembly is to perform its function. At other times, or even at other points in the same process of a Bill, a speech, or a debate on a motion, it is of service to the Assembly and the community to find ways to dissipate the tension. On one occasion a careful use of humour may serve the purpose. At another time humour will be felt as quite the wrong thing. Allowing a Member or a group of Members a degree of latitude in their time or speech or conduct, enables this pressure to be released in a constructive fashion.

This facilitation of the life of the Assembly in plenary is also important in other aspects of its group expression including social occasions with constituents or other guests in the parliament building, the practical operations of its group life in the building, the processes of its committees, and its relations through the press with the community at large. The key to it all is allowing the

fundamental purposes of containment and expression of aggression and other feelings through a sensitive conduct of the process of relationships.

In attending to the needs of the process we should never underestimate the importance of practical human needs. If Members or staff cannot eat or drink satisfactorily, if they are cold or uncomfortable, or if they cannot hear each other speak clearly, we should not be surprised if they become disgruntled. If they cannot send and receive messages from their constituents or the press they will be irritable. Their anxiety levels will rise when they are not reasonably clear about when they need to be in the building and when they can safely be elsewhere. They feel much better about themselves and their work when they can offer to constituents the patronage of visits to, or social events at, an impressive and attractive Parliament Building. Physical security may be too lax to be reassuring, or it may be too intrusive and obstructive of normal life and work. Personal and family security is affected by salary levels, pension arrangements and severance payments, all of which seem currently to be begrudged by the community when they should be offered with some appreciation of those who act as vital channels for the transformation of the most powerful and destructive communal urges. These may all seem pedestrian matters far from the high ground of political discourse, but they are the foundation for human interaction no less in a political Assembly than in any other group of people.

Beyond the provision of these supports and facilities to all members regardless of party, record or seniority we should note that the allocation of the best offices, interesting visits and other benefits provide the long-suffering Party Whips with some of the leverage and patronage that their otherwise thankless task requires. Contrary to popular lore, the Whips are not merely the instrument of party voting discipline. Their ability to sustain the whole organism of the Assembly is based on their relationships with each other and on the knowledge of Members, procedures, current politics and pressure points which they share with the Speaker and other senior officials and which is the scaffolding or software which supports the whole operation of a Legislative Assembly.

The relationship between the Executive and the Legislature is perhaps the least understood element of governance – least understood by the populace and their principal informants, the ladies and gentlemen of the press. The Government consists of those members of the Assembly chosen by their party leaders to undertake ministerial roles and with their civil servants they have direct responsibility for delivering those goods and services which the community has decided ought to be a group task – hospitals, schools, roads, regulatory authorities, policing and the administration of justice and so on. The Legislature, made up of all the elected members of the Assembly (MLA's), but especially those who do not have positions as Ministers, have the job of sanctioning, criticizing, and holding the Ministers to account, and providing the Government with the funds and the laws which facilitate these provisions and circumscribe them. The Speaker must enable the Ministers to get their proper business through the Assembly otherwise the community will

not have proper services, but s/he must also ensure that there is sufficient opportunity for debate and holding to account or the quality of the services and their fair provision will inevitably suffer. This balance is the underlying theme and task of every business committee meeting, and ultimately of every plenary and departmental scrutiny committee. The 'doing' function of the Ministers must be matched by the 'reflecting' function of the Legislators, and the Speaker must consciously work to enable the optimum expression and interaction of both functions. Where the Ministers substitute talking for doing, and Legislators obstruct rather than scrutinize, the Assembly is not 'working', but rather sliding closer to the expression of division. Where the Government business receives less than rigorous scrutiny, and slips through 'on the nod', the Assembly is not doing its job of adding value and quality to the process of making laws and governing the community.

There is one further and ultimately essential element in the conduct of business in an Assembly. Everyone likes to be treated with respect, and politicians may well be thought to be insatiable in this regard. Someone who is not treated with respect, but rather is dismissed or humiliated finds it difficult to forgive or forget and may well be provoked to a deeply angry response. It is essential in an Assembly that people can disagree, but equally necessary that they find ways of doing so without a breakdown in the working of the institution. It is sometimes suggested that trust is a prerequisite for a successful Peace Process, but this is not so. Trust is an outcome of a successful process and a result of undertakings freely entered upon and honoured during the process. Similarly it is not reasonable to expect people who have been at war to *feel* respectful to each other. It is however possible to persuade Members of an Assembly to *behave* with respect for the institution and its procedures. In this way they begin to construct a culture of respectful behaviour which can mitigate and contain all sorts of problems and make long term working relationships possible, even between traditional enemies. The language and conduct of the parliamentary chamber may sometimes appear a little stilted or false to the outsider but these are some of the tools through which respectful conduct is mediated, enabling those who do not even like each other to express their differences forcefully without crossing the line of disrespect and damaging the prospects for working relationships. Those who appeal for parliamentarians to discard such conduct in favour of casual chattiness probably do not understand its profound significance.

You may have found it strange that I have said nothing about the struggle for power, the role of personalities and their rivalries and ambitions. These are vital for understanding the content of the work of any Assembly and its success and its failures. The stories of the victors and the vanquished, the changes in policy and practice, the constitutional struggles and the rise and fall of individuals and parties, all of these are the meat and drink of daily reportage and the stuff of history. They are like the story in a novel. This is what excites us about a book. We tell our friends to read it and they too enjoy the story. But what is the purpose of novels and how do they function? That is another matter entirely, and more for the aficionado, the literary critic

and the novelist him or herself. This volume is unashamedly not popular entertainment, but for those who want to understand the Legislative Assembly and how it works, I hope that this book, which tells its own story, is of help in your calling.