

THE ASSEMBLY ELECTIONS

(412 words)

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The assembly elections of 2 March 2017 have produced a significant result. However, regardless of the consequence – resumed devolution or direct rule - , it is distressing that some media commentary misread the legal position badly.

The Northern Ireland Act ('NIA') 1998 contains the law. Following the 2006 St. Andrews agreement, Peter Robinson secured the addition of sections 16A to 16C to that statute.

Within two days of the elections, the 90 assembly seats had been filled: DUP, 28; Sinn Féin, 27; SDLP, 12; UUP, 10; Alliance, 8; and others, 5. That weekend, there was a great deal of loose talk about unionism losing and nationalism winning.

The following constitutional mistakes were made:

- first, for the DUP, a majority of one seat was enough to nominate the first minister: section 16A(4);
- second, even if Sinn Féin had equalled the DUP, the latter, with more first preference votes, would still have succeeded: section 16C(2)(b);
- third, the concept of political designation meant that unionism had 28 plus 10 plus 2 seats, making 40, while nationalism had 27 plus 12, making 39 seats: section 16A(4)-(5);

- and fourth, there was no unionist majority to be lost, because the Belfast agreement provided for pluralist democracy – remember ‘no unionist majoritarianism!’.

Once the DUP came back with 28 seats, and Sinn Féin with 27, the story should have been: it is Arleen Foster, trying to row back from the elections, and Michelle O’Neill, under orders to continue Martin McGuinness’s disruption...or not.

The BBC website, accessed days later, still contained the option of a UUP/SLDP coalition, and therefore the unproblematic continuation of devolution.

I awoke to Radio 4 on the Saturday, talking about a lost unionist majority (leading some in metropolis, no doubt, to believe for a moment that the Irish question had been answered finally). The resignation of Michael Nesbitt contributed to this illusion.

Andrew Neil – catching up on the mainland – told his *Sunday Politics* viewers that nationalists had more seats than unionists, namely 39 to 38.

The timely political analysis that weekend (leaving law aside) should have comprised: first, Martin McGuinness had made a virtue of ill health by forcing the assembly elections; second, the republicans would cling on most likely to tribal range (given the extra votes it garnered), during the 14 days from 13 March 2017 to elect the first and deputy first ministers; and third – and paradoxically – , Sinn Féin would probably bring about direct rule, in order to continue the struggle against British domination!