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Thoreau
This is a paper prepared by [signature] I did this a week ago to think
Noel Don following the recent discussion things out for myself. I gave
in Dublin on the "Burns" presentation. a copy to [signature] Gallagher but
I agree totally with his conclusions. [signature] did nothing with it.
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9/12
Some reflections on the Burns scenario

Introductory

1. This paper is a personal attempt to think through some of the issues raised for us by the presentation of British thinking made to us at official level in Dublin on 22 January by Ian Burns Deputy Secretary at NIO. I think it likely that these ideas originate largely with Burns himself but they have been taken up at Ministerial level on the British side and they will be explored further by the Northern Ireland Secretary with the Minister for Foreign Affairs at the Anglo-Irish Conference meeting on 31 January in London.

The Burns Scenario

2. The Burns presentation (which he said he was explicitly instructed to make to us by Mr. Brooke) could be summarised as follows:-
 - (i) Political progress, in the sense of a willingness by the Unionists to engage in talks of some kind, is now possible though it could not yet be said to be probable.
 - (ii) The evidence for this is that whereas Unionist leaders from 1985 to 1987 had been creating conditions which they knew could not be met, they are now looking for a way forward. Because they are nervous they are still sticking to pre-conditions but they are formulating them in a different way.
 - (iii) The important thing is that they are now prepared to negotiate while the Agreement is still in place, if something can be done to meet in some way their two other conditions - suspension of the Conference and of the Secretariat.
 - (iv) The point about suspension of the Conference could be met by allowing a gap (which means an interval between two defined dates) of say three months (possibly from March to June) in the time-table of meetings.
 - (v) The point about suspension of the Secretariat should be met, not by a real suspension, but by a cosmetic step which would be known to be cosmetic and accepted as such by the Unionists. This could be a statement that the British Joint Secretary, who also carries certain other responsibilities in NIO, would now be devoting much of his time to

dealing with the (proposed) talks.

- (vi) Molyneux's policy had been inactivity; Paisley is more flexible. Both could be moved by party pressures which are at work.
- (vii) It is not possible at this stage to work out the format for talks if they should get under way but in the logic of things Dublin would soon be drawn in.
- (viii) In general the road ahead is not clear. It is necessary to proceed one step at a time - as it were as far as the next sign-post.

Need to look for what is positive

3. If there is ever to be real progress towards a political settlement of the Northern Ireland problem, we cannot expect that it will come ready-made. In trying to draw the Unionists in particular into real political dialogue, it will be necessary to think creatively and focus on what is positive in statements in which Unionist leaders may also have to cover their backs by repeating some of their old positions. We should not therefore immediately rule out the Burns scenario because it is not clear-cut or because it contains a certain risk. Having said that however, it is also necessary to be as clear-minded as possible about where we may be going, or where we could go, before getting aboard the vehicle which Burns now proposes as offering a way forward.

Danger of erosion of Agreement

4. Whatever its merits or demerits, the one thing which so far has distinguished the Anglo-Irish Agreement from all previous initiatives is that both Governments have held firmly to it against every attack over four years. This firmness of purpose has surprised and disconcerted the Unionists as they find that each of their efforts to erode the commitment of the two Governments to the Agreement has failed. But there is an important asymmetry between the positions of the Unionists and that of the two Governments in the contention over the Agreement: the Unionists can continue a series of unsuccessful efforts to erode it in the hope that one day they will succeed; while it takes only one clear indication on the side of either or both Governments that they are prepared to abandon the Agreement, for it to begin to unravel. So the two Governments - and the Irish Government in particular - need to be reasonably sure that they have got it right if they give up some aspect of the Agreement in the hope of achieving something better.

Three aspects of Burns Scenario

5. In considering the Burns scenario it is possible to focus on three different aspects:-
 - (a) the ideas themselves and what they would involve
 - (b) how far the Unionists are likely to find them acceptable as a basis on which to come to talks
 - (c) the direction (though not the ultimate outcome) which such talks might take.

These aspects are considered further below.

6. (a) The ideas in the Burns scenario

The "gap"

A gap of up to say three months between successive meetings of the Conference would in itself be relatively easy to arrange. Burns has emphasised that the dates on either side of the gap would be specified and announced in advance. The difficulty is that any talks which might develop would be unlikely to be concluded by the end of the three-month period and there would therefore be pressure to extend the gap. The hope on the British side seems to be that, having begun to talk during the three-month interval, the Unionists would, by the end of the period, be prepared to accept the scheduled meeting of the Conference taking place without breaking off the talks. This is possible - but somewhat optimistic.

The Secretariat

7. Burns takes the view that the Unionist pre-condition about suspension of the Secretariat has softened to such an extent that they would now be prepared to accept a cosmetic gesture which is clearly seen to be cosmetic. His proposal here is that it could be said if talks get under-way that the Head of Secretariat on the British side, because of staffing pressures would have to devote a good deal of his time to the talks. Burns emphasised that, having offered something on these lines, that should be the end of the matter - there would be no further bargaining or otherwise the Unionists would raise the stakes.

8. It is very optimistic to expect that the Unionists could accept this as sufficient. What is central to their objections to the Secretariat is the fact that it gives Dublin officials a role in Northern Ireland; and Burns's idea, at least as he formulated it to us, would not touch this point.
9. Beyond this however there is the difficulty that it would seem politically necessary for the Unionists to "sell" any such "concession" on the Secretariat as meeting their pre-condition for its suspension; while it would be necessary for the two Governments, and particularly for the Irish Government, to emphasise that the Secretariat was not being dismantled or suspended. It would be hard to depict the gesture as both a suspension and not a suspension to two different political constituencies at the same time.
10. If the circumstances were otherwise right and we were clear on other aspects of the scenario it would seem better to meet the "Secretariat problem" by having the two Governments announce jointly that if talks started they would ask the two Joint Heads of Secretariat, in the gap between Conferences, to move from Maryfield and undertake secretarial services for the servicing of those talks. This would still be a "fig-leaf" since the Secretariat as such would continue to function through its other members as a liaison point between the two Governments; but the joint diversion of the Joint Heads of the Secretariat to servicing the new talks would go symbolically some way towards meeting the Unionist position while at the same time intimately linking the gesture in regard to the Secretariat with the talks which it would have helped to make possible (with the implication that if the talks broke down the joint Secretaries would revert to their Maryfield functions as a matter of course).
11. There is of course the difficulty that the Unionists might take the position that the Joint Secretaries are so "tainted" by their present role that they would simply be unacceptable in providing secretarial services for the proposed talks. The Unionists might in any case find it difficult to swallow a role for the Dublin Joint Secretary in servicing talks within Northern Ireland -especially if, which is quite a possibility, those talks are envisaged in the Burns scenario as being in the first instance internal Northern Ireland talks involving the parties there and the Secretary of State.

Role of Irish Government

12. Another point to be considered carefully in the Burns proposal - and a point on which Burns was far from clear - is the role of Dublin in relation to the proposed talks. Burns seems to envisage that the talks in the first instance would involve only the parties in Northern Ireland and the Secretary of State but that in the logic of things Dublin

would soon be drawn in since it would be necessary to deal with the North-South dimension. This may be so; but "the logic of things" is not a very substantial assurance to us on a matter which is of fundamental importance to the position of the Irish Government and of the SDLP. To go on this kind of assurance about the "inevitability" of our later involvement would be to put a considerable strain on the SDLP who would have to argue at the talks for the involvement of Dublin in due course to give expression to the Irish dimension. We should also note that, while we would not of course be giving it up, we would be at least accepting some risk to our present assured legally endorsed position in relation to Northern Ireland (under the Agreement) and accepting, for the purpose of the talks at least, a position where this involvement was very much less assured.

13. (b) Likely position of the Unionists

While accepting that the first "shoots" of hope must be encouraged and nurtured wherever they appear, it still seems highly optimistic on Burns part to say as he does that pressures on Molyneux and Paisley respectively could induce them to accept the talks he envisages and on the basis which he has outlined. The problem of dealing with the Unionists for some time has been how to encourage and bring forward the less negative positions of the second echelon of leadership in both the OUP and the DUP and avoid having those positions continually stifled by the top leadership of Molyneux and Paisley. Burns hopes that continuing pressures will achieve this but this seems questionable at the moment. There is also the old problem of the competition between the two parties and the undoubted fact that Paisley has sand-bagged from behind every Unionist leader who showed signs of compromise since Terence O'Neill.

14. Perhaps this is too pessimistic a view - since we must all look to the day when the views of the second echelon of leadership will prevail over Paisley and Molyneux. But there is still the problem of very different views of Paisley and Molyneux on the devolutions/integration issue. This point leads into the third aspect of the Burns scenario identified above - the question of what direction any talks might take?

15. (c) Towards what would any talks be directed?

The point here is not to require that we know in advance what the ultimate outcome will be but the need to have some sense of the direction in which any talks might be expected to go. There is perhaps something of a danger in concentrating as we all have done, naturally, on how to get the Unionists into talks and how to handle the "pre-

conditions", that we tend to underestimate the importance of having some general idea in advance of the direction in which talks might go if they were to get under way.

16. What is fundamental in the Unionist objection?

If one tries to understand the fundamentals of the Unionist antipathy to the Agreement two points emerge:-

- (i) what they see as lack of consultation and involvement in the negotiation of the Agreement
- (ii) the fact that Dublin, through the Agreement, is given a role of whatever kind in the governance of Northern Ireland (thus allowing the camel to put his nose under the tent...).

The effort to get the Unionists somehow into talks is largely an attempt to meet the first of these two objections by ensuring that the Unionist voice would be heard and given expression from the outset in the negotiation of any new arrangement. But the second of these two objections is I think even more fundamental from a Unionist view-point; and we must take it that it will be a central Unionist aim in entering any talks to reduce or end the role which Dublin has been accorded under the Agreement.

17. There is one way in which the Agreement itself opens this possibility to them. The input from the Irish Government is to the direct rule system under the Secretary of State; and to the extent that responsibility for certain matters is transferred to a devolved administration under articles 2b, 4, 5c and 10b and c, then to that exact extent the Dublin role is reduced. The underlying idea here is that the Irish Government is as it were the surrogate spokesman for the minority; and to the extent that the minority become their own spokesman through a power-sharing devolved administration ("on a basis which would secure wide-spread acceptance throughout the Community" - Article 4b). Then the need for a surrogate spokesman disappears.
18. The Unionist leadership has however so far adamantly rejected the possibilities offered by these provisions of the Agreement precisely because they are tainted by being a part of an Agreement (there is of course the additional point that Molyneux does not in any case want devolution) which gives the Irish Government a role in Northern Ireland. Accordingly, unless they change in some unforeseen way on this point, their aim will have to be some arrangement that reduces or ends the role accorded to the Irish Government under the Agreement but which is not devolution as provided for (and contaminated by) the Agreement.

19. The question for us is whether we can accept this? If we can, well and good. If not, is it wise to get into talks where this is such a fundamental aim of the other side? Or can we approach it on the basis that the all important thing is to draw the Unionists into talks of some kind and hope that this very fundamental incompatibility of aims will somehow be resolved in talking?

20. Various models for approaching the Northern Ireland problem

It may help at this point to identify a number of different positions or approaches to the problem of Northern Ireland (which may be seen for this purpose as a two minority problem in the sense that Nationalists fear being subordinated as a minority within Northern Ireland while Unionists fear that they will ultimately be subordinated as a minority in a united Ireland):-

(i) The Stormont model

Northern Ireland is governed under a devolved Administration elected on a straight-forward majority basis. This devolved Administration may if it wishes develop links on practical matters with Dublin.

(ii) The Sunningdale model

Northern Ireland is governed by a devolved power-sharing executive with a guaranteed role for the minority and with an institutional link with Dublin through a Council of Ireland which has a capacity for growth and development.

(iii) The Hillsborough model

Northern Ireland continues to be governed by the direct rule system but with input now by Dublin as a surrogate for the minority into the decision-making of the Secretary of State to the extent provided for in the Agreement; and with the possibility of devolution of powers (and consequent diminution of the role of Dublin) to what would in practice have to be a power-sharing administration ("on a basis which would secure wide-spread acceptance throughout the Community").

(iv) The Molyneux model

This is not wholly clear but it seems to involve integration; a "grand committee" dealing with Northern Ireland in the House of Commons; and some kind of agreement between Dublin and London giving each Government some right of comment on matters affecting its citizens in the other jurisdiction - thus giving expression, as Molyneux sees it to "the totality of relationships".

(v) The Paisley approach

This seems to involve a devolved administration in Northern Ireland chosen on a straight-forward majority basis. Once chosen it would develop contacts with Dublin which would give expression to the idea of good neighbourly relations.

(vi) The British Government approach

Hold to the Anglo-Irish Agreement; and encourage talks ("to or towards devolution") which would draw in Unionists into considering measures, falling short of devolution, which would somehow associate elected representatives with the process of decision-making under the direct rule system.

(vii) The Hume/SDLP approach

No pre-determined model specified. Hold to the Agreement. Unionists and Nationalists on the island should however enter talks to explore their relationships with a view to then finding out how to give expression to those relationships in an Agreement transcending what has been done so far and with agreement in advance that any outcome would require approval in separate referenda North and South.

(viii) Irish Government approach

Hold to the Agreement; devolution as provided for in the Agreement not ruled out but seen as unlikely; invitation to Unionists to talk about their relationship to the rest of Ireland in an open-ended way and without pre-conditions - with a possibility of negotiating a new and more broadly-based agreement transcending the present Agreement. No specification of the shape of such an agreement possible in advance of discussions.

21. The listing of positions shows that, if one leaves aside the whole question of pre-conditions and how to get talks under-way, it still remains in assessing the Burns scenario and in present circumstances that one has to take account of some fairly fundamental incompatibilities in the aims and ideas of the different parties who would now be involved in any discussions. Molyneux cannot accept the Agreement or devolution; Paisley cannot accept the Agreement or devolution on a power-sharing basis; the SDLP cannot give up the Agreement unless something better emerges and they cannot accept devolution without power-sharing; the British Government is willing to fudge on the Agreement but cannot really give it up; nor can they explicitly abandon some kind of power-sharing under whatever name as a necessary condition for devolution; the Irish Government cannot give

up the Agreement or accept a lesser role in relation to Northern Ireland - except possibly (?) to the extent that there is a devolved power-sharing administration involving the SDLP.

22. It is difficult to see how these fundamentally different approaches could easily be reconciled in any negotiation in present circumstances; and to the extent that this is difficult to envisage, it would be well to be wary of any serious erosion of our position on the Agreement while of course ensuring as far as possible that the Irish Government is not seen as an obstacle to talks.

23. *Conclusion* In conclusion it seems to me that three general points might be made in the present situation:-

(a) The Agreement cannot work as it was originally, and most hopefully, intended to, to bring peace and stability so long as (i) the Unionists remain out in the cold and (ii) the IRA continue their onslaught. If a solution could be found to (i) and the Unionists were drawn in then it might be possible to face down the IRA attacks but so long as the Unionists remain outside and those attacks continue the Agreement will never work in the full sense in which it was intended to.

(b) Nevertheless the Agreement remains a basic framework which the two Governments should retain and work to the maximum extent possible even if the results fall short of the most optimistic hopes of 1985. The Irish Government in particular should hold to the Agreement and ensure that it is not eroded even if it is not worked as fully as we would like. Precisely because it is a framework rather than a settlement it has the capacity to sustain a very different political content in a different future political situation.

(c) It is dangerous to nibble away at the Agreement in order to get talks going with the Unionists to bring them into the Agreement. At the right time and in the right circumstances it may be possible to negotiate a settlement which does not grow out of the Agreement but which transcends it in importance and which would have to involve a compromise by each of the parties involved.

24. To get to such a negotiation it will probably be necessary to go some way to meet the Unionists. But there will only be one real chance to do this and it would be important to "get it right".

25. I would have to conclude, without wishing to seem negative, that the odds are that circumstances are not yet right for this; and that it would be well to be very cautious about the current Burns approach while avoiding as far as possible giving ground for an accusation of being unduly negative or intransigent.

NDM
29 Jan 1990