

E.R.

Tom. Clare in 7235; 8/137
 File on this. J. J. J.
 cc PS/PUS ✓

Mr Moriarty (or)

PS/Mr Bell
 Mr Marshall
 Mr Hannigan
 Mr Wyatt
 Mr Gee
 Mr Cowling
 Mr Daniell

FALL-BACKS

1. While you have been on leave we have been giving some thought in CPL to the policy options that we may face if and when the talks with the parties leave us in no doubt that Cmnd 7950 has no future.
2. The preliminary indications from the talks are not favourable. The UUP have persisted in their argument that local government reform is the only practicable option since Unionists cannot accept HMG's precondition of power-sharing in devolved government; Molyneaux has said he is not interested in further talks unless we have progress to report to him. The DUP might be persuaded to buy Option 2 - though they want the Council of the Assembly to have minimal powers. The SDLP dismiss Option 2 entirely, blame the Unionists for making Option 1 impossible, and play the Irish card. Alliance support the SDLP wholeheartedly in dismissing Option 2 and demanding Option 1.
3. If those attitudes are confirmed in subsequent talks, then soon after the return of the Secretary of State and PUS from leave in mid-September we shall have to decide what alternative course to advise the Secretary of State to recommend to colleagues.
4. We see six courses being available:
 - a) improve Option 1 of Cmnd 7950 in the hope that the Unionists' bluff will be called and they will operate it;
 - b) impose Option 2 in the hope that the SDLP will, albeit reluctantly, work the system;
 - c) go for a Strathclyde-type solution;
 - d) accept that in the present circumstances an acceptable settlement is impossible and shake up the pieces by placing the problem in an all-Irish context;
 - e) batten down the hatches and continue with direct rule (perhaps with some limited embellishments);
 - f) establish a consultative Assembly as a first step to full devolution.
5. Course f) is that envisaged last autumn in the paper that originally went to OD and is hinted at in the references to a "progressive" approach in paragraph 6 of Cmnd 7763 and paragraph 64 of Cmnd 7950. We in CPL believe (with no great enthusiasm) that it is the least unattractive of the options open to us. We reach that conclusion by a process of elimination:

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Course a): the arguments why Option 1 cannot be imposed against the majority will are spelt out in Cmnd 7950. Even if the Unionists agreed to work the system it would not be long before their inherent dislike of it led to a crisis. In fact Unionists might well organise direct action against HMG or boycott the election. A referendum (before legislation) might conceivably show widespread support for Option 1; but it would be most unlikely to be a majority of the electorate and subsequent elections to an Assembly could well produce a different result. A referendum is unlikely to enable Option 1 to work.

Course b): the arguments against imposition in the face of minority community (ie SDLP) rejection are as strong as ever. The SDLP would probably boycott either the election or the Council of the Assembly. This could be accompanied by disturbances on the streets and non-cooperation with Government (eg rent and rates strike, withdrawal from public bodies). Our relations with Dublin would suffer and cross-border security cooperation would be at risk (as would bipartisanship at Westminster).

Course c): this carries all the dangers of b) but in more acute form. We could not even claim that minority rights were looked after since it would be difficult to devise anything as effective as the Council of the Assembly. The emotive fears of discriminatory local councils would be revived. We would have to admit that legislative devolution was on the back burner, which would oblige us to review legislative procedures at Westminster and probably force us further into integration.

Course d): the possibility of HMG declaring an interest in Irish unity cannot be ruled out for all time. But it does not seem to provide an answer in the short-term. It could provoke a violent reaction from the majority; and even if that is avoided, its inevitable unsettling effect will make for political (and security) instability. In the meantime HMG would have to persevere with direct rule in an atmosphere of suspicion and mistrust.

6. The elimination of those four courses leaves the choice between e) largely unreconstructed direct rule and f) direct rule modified by the creation of a Consultative Assembly. We see many disadvantages in a Consultative Assembly: it is either opposed, derided or dismissed as irrelevant by the UUP, DUP and SDLP (and probably the Labour Party); it will be a rod for HMG's own back; it will be disliked by many in the NICS; it may develop into a forum for sterile, embittered argument between the parties; and once established there is no guarantee that it will lead us on to bigger and better things - and it will be difficult to get rid of.

7. Nevertheless, on balance we favour a Consultative Assembly, if largely for the negative reason that the disadvantages and dangers of reverting to direct rule as before are so great. After all we have said, it would be a political humiliation for the Government to admit to being capable of doing nothing. Moreover, if direct rule were to be seen to be stretching ahead indefinitely, four distinct and extremely dangerous sets of pressures would be likely to develop:

- a) pressure on the SDLP, still with nothing to show for their acceptance of the constitutional existence of Northern Ireland, to become more extreme in their Republicanism and possibly to break up;
- b) renewed pressure from Dublin (and the US) for a move to satisfy minority aspirations - with the consequent risk of spill-over into security;
- c) probably irresistible pressure from within the Conservative party and the UUP to fill the Macrory gap by some kind of local government reform (adding fuel to a) and b));
- d) similar pressure to discontinue legislation by Order in Council and to adopt UK-wide Bills (adding to fears of integration).

8. A Consultative Assembly would not be proof against these pressures. But it would help to some extent in deflecting them, particularly if we can present the Assembly as a positive step towards establishing devolved government, thus emphasising the continuing temporary nature of direct rule.

D CHESTERTON

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