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cc Private Office
Secretary
Mr Green

28/5/19
Mr Spence

RESIGNATION OF "UNIONIST" DISTRICT COUNCILLORS

1. At the PCC meeting on 11 September confirmation was sought about the affect on Education and Library Boards should "Unionist" District Councillors resign from District Councils. The position is as follows:-

- (a) A member of a District Council who is appointed to a Board on the nomination of that District Council shall cease to be a member of the Board if he ceases to be a member of that District Council (Paragraph 6(2) of Schedule 2 to the Education and Libraries (NI) Order 1986).
- (b) The Order also provides that a vacancy occurring in the District Council membership of a Board shall be filled by a District Councillor of that Council. While the Order is quite specific about the nomination by District Councils following elections in accordance with Section 11(2) of the Electoral Law Act (NI) 1962 (persons so nominated must be appointed), it is silent as to nominations by a District Council to fill casual vacancies occurring during the term of a Board. However, legal advice has been obtained to the effect that a court may be prepared to read into the legislation the necessary words to confer on the District Council the power to make mid-term nominations. In fact that has been the practice of DENI since 1973 - to seek nominations for casual vacancies from the relevant District Council.
- (c) However there is no provision in the Order as to how soon after the vacancy has occurred it should be filled. Furthermore there is provision in the Order to the effect that the proceedings of a Board shall not be invalidated by any vacancies among its members.

2. The membership of Boards is as follows:-

Board	District Councillors "Unionist"	Other parties	Other Members	Total
Belfast	14	-	21	35
North-Eastern	12	2 (SDLP)	21*	35
South-Eastern	11*	3 (2 ALL and 1 SDLP)	21	35
Southern	11	3 (SDLP)	21	35
Western	4	9 (6 SDLP and 3 SF)	19	32

*Includes 1 vacancy

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3. Resignation of "Unionist" District Councillors

- (a) If there is to be a "block" resignation of such Councillors, it is expected that the Boards will be able to continue to conduct business provided there is no significant support for the "Unionist" protest against the Anglo/Irish Agreement by other Board members. The quorum of a Board is 1/3 of the total number of members.
- (b) If there is a block resignation and "Unionist" Parties put forward candidates for the bye-elections, it would be prudent to await the results of such elections before seeking nominations to fill the "district council" vacancies. However it cannot be assumed that "Nationalist" controlled District Councils would be willing to await the results of elections before submitting nominations, or even if they did, that they would put forward for nomination some "Unionist" District Councillors as they have done in the past. This is likely to affect the Western and Southern Boards most and there is a danger that some SF District Councillors may be nominated (there are present only 3 SF District Councillors -all on the Western Board)
- (c) If the "Unionist" Parties boycott the bye-elections then the field could be open only to the other Parties to fill vacancies on Boards - the problem of SF members may again arise.
- (d) In certain District Councils, block resignation of "Unionist" District Councillors may make these Councils inquorate.

E. Plumbett

PP-

K Clark

DENI

15 September 1986

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