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770/12

cc PS/Dr Boyson (L&B)
PS/Mr Scott (L&B)
PS/Lord Lyell (L&B)
PS/PUS
PS/Mr Bloomfield

2. SEC 3
152/1985

Secretary of State (L&B)

SINN FEIN PRESENCE ON DISTRICT COUNCILS AND PUBLIC BODIES

1. I enclose my report which, you will see, deals with the background to the problem, the deputations I met, the concerns which were expressed, the solutions proposed by those deputations, and my consideration, analysis, conclusions and recommendations.
2. My investigation began before the signing of the Anglo-Irish Agreement and the establishment of the Inter-Governmental Conference which has inevitably changed the political climate and the Unionist strategy in Local Government. Nevertheless, if we are ever to return to normal politics in Local Government, the presence of Sinn Fein has to be tackled.
3. If we are to avoid major pitfalls, we have first to agree a course of action amongst ourselves and certainly before we have any discussion at the Inter-Governmental Conference. I am concerned that any early mention of this at the Conference will leak and this would certainly give a major propaganda coup to both the Unionists and Sinn Fein in the run up to the by-elections.
4. The Unionists believe that action should have been taken on these problems which arose long before Anglo-Irishy and their determination should therefore not be seen to be part of that process.
5. A further pitfall is that the SDLP are likely to oppose my suggestions and no doubt will use the Inter-Governmental Conference to that end. This will further reinforce the Unionist perception that the SDLP have an unfair advantage in the formulation of a policy which they see primarily affects them.
6. Our policy on Sinn Fein affects the community in general and local government in particular. I would hope that we could publicise our proposals as widely as possible during February. Circulation would include the Assembly, the Inter-Governmental Conference, the Association of Local Authorities, as well as political leaders and it would show the Government's determination to take action in support of constitutional politics.
7. I repeat that I hope that there will be no wider discussion on this very sensitive issue until we have had an opportunity to meet amongst ourselves.

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8. Although I have given my report a wide circulation among senior officials, I have only copied this letter to Ministerial colleagues, PUS and Mr Bloomfield.

Richard Needham

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RICHARD NEEDHAM

(Dictated by the Minister and signed in his absence)

30 December 1985

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SINN FEIN PRESENCE OF DISTRICT COUNCILS AND PUBLIC BODIES
REPORT TO SECRETARY OF STATE

1. At the meeting of 24 September 1985 which you had with Ministers and senior officials, it was agreed that I would engage in a series of meetings with District Councillors and other public representatives to listen to their concerns about Sinn Fein, to consider what possible action we might take and to report back.
2. Copies of the minutes of each of my meetings have been given wide circulation. I now enclose a synopsis of the arguments and my recommendations.

3. THE BACKGROUND

3.1 You will be aware that the actions of Unionist controlled Councils in suspending or adjourning meetings of Councils began initially in support of Craigavon Borough Council. Craigavon Council attempted to take action against the 2 Sinn Fein members of that Council by:-

- (a) seeking to establish a Special Committee of the Council to conduct all appropriate Council business which could be delegated to a Committee, to be comprised of all the other members of the Council except Sinn Fein; and then
- (b) seeking to require all elected members of the Council to sign a Declaration about non-participation in and non-support for terrorist activity.

3.2 Both these attempts resulted in High Court action. Although they were found to be unlawful and void, it is important to note that the judgements showed sympathy to the position of Craigavon (and other Councils in similar positions) in the following ways:-

- (a) Although Craigavon Council acted unlawfully, it was proper for the Court to take notice of and the Councillors to be concerned with the policy and aims of Sinn Fein and in particular Sinn Fein's "unambivalent support for the armed

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struggle". The actions of Craigavon in light of the legitimate security considerations were considered by the judge to be "not so unreasonable that no reasonable Council could ever have come to them".

- (b) The provision of the European Convention for the Protection of Human Rights and Fundamental Freedoms were held to be relevant. The judgements noted that "Sinn Fein ... is a group engaged in activities aimed at the destruction of many of the most important rights and freedoms set forth in the Convention."
- (c) While exclusion of Sinn Fein or the introduction of an appropriate Declaration were not powers implied by the common law or under appropriate Local Government legislation, "Councillors are entitled to feel that the election of Sinn Fein members and their own inability to take effective steps to exclude them, have left them exposed to regrettable and avoidable danger." Thus certain action might be considered not unreasonable, but the specific actions of Craigavon Council were not valid. The judge indicated that it was for the Government and Parliament to decide on the introduction of such powers and not for their unilateral application by any Council.

3.3 It was in light of these judgements and the views expressed by the respective judges that Craigavon Council sought a meeting with you to discuss the implications for Government. Any consideration by us for future action must take these into account and so the comments above have inevitably had some influence on my approach.

4. THE DEPUTATIONS

- 4.1 Between 27 September and 10 December, I had 20 separate meetings. Those present as outlined in Appendix 1 included 7 Members of Parliament, 14 Members of the Assembly and 34 separate Council political grouping.
- 4.2 Because of reaction to the Anglo-Irish Agreement announced on 15 November, further representations from the Association of Local

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Authorities, Belfast DUP, Ballymoney Council and Antrim Council did not take place.

- 4.3 An initiative by a number of Mayors and Chairmen was not proceeded with for the same reason.
- 4.4 Of the 19 deputations, 10 had originally requested to meet the Secretary of State but, in correspondence and subsequent discussion, agreed to meet me. The one important deputation which did not agree to have a meeting with me was Craigavon Council and so I did not have an opportunity to discover the rationale behind their actions.
- 4.5 I was impressed by the sincerity of feeling and with the willingness of deputations, without exception, to discuss their problems in a reasonable and objective way. It was interesting that each deputation contributed something different to the overall picture both in their views and in their proposals for security, political or legal changes.

5. THE CONCERNS EXPRESSED

Notwithstanding the different emphasis between deputations, the following concerns emerged and were repeated consistently.

5.1 Security Issues

All deputations except the SDLP, reiterated that Sinn Fein and the IRA were one and the same organisation. Statements by Sinn Fein public representatives were referred to regularly. For example, the reference by Martin McGuinness on the day of the local government election results that Sinn Fein was "the cutting edge of the IRA"; the comments by the Chairman of Omagh Council, Seamus Kerr, that Council employees were legitimate targets for the IRA; the justification by the Chairman of Fermanagh Council, Paul Corrigan, of the bombing of the earlier Sealink Fishing Festival. Phrases such as Sinn Fein being "apologists for murder", "people dedicated to the overthrow of the State now allowed to participate in its Government", and "they [Sinn Fein] are allowed to play the game but refuse to abide by the rules of the game" were used frequently.

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I heard graphic details of IRA terrorist activities across the Province. One former Chairman, commenting on the bomb at the Fermanagh Fishing Festival said to me, his voice filled with emotion, that he saw "big men who were not afraid to cry". I was made very aware of the history of murders of public representatives, particularly Unionists politicians and there is a genuine and grave concern among Councillors that the IRA now have "eyes and ears inside the Council Chamber". They have details of the movements of Councillors and Council staff. They know where Councillors live and when they are likely to travel. They know the layouts of buildings, through their handling of planning applications. It was very clear that the feelings of those who had seen their friends and colleagues murdered was not political posturing but were the feelings of ordinary decent people.

5.2 Credibility and Integrity of Local Government

It is against this background that Unionist Councillors feel that the presence of Sinn Fein Councillors undermines the credibility and integrity of Local Government. It was said to me on a number of occasions that "to work with them gives a respectability which is wholly unjustified and undermines our credibility". Unionist and Alliance Councillors made clear, both for themselves and their constituents that the presence of Sinn Fein is a "negation of democracy". The fact that a substantial number of Sinn Fein Councillors have records for terrorist convictions causes understandable outrage. This outrage is fuelled, for example, when the Sinn Fein Chairman of Omagh Council on one day opens a new tourist facility but, on the following day refuses to condemn a terrorist explosion in the town centre.

The public comments of the Secretary of State and Ministers in condemning the use of violence for political ends were used by the Unionist deputations as an argument against allowing Sinn Fein on District Councils, since it was their judgement that a democratic society cannot, by its very nature, accommodate those who seek to change that society by the use of violence.

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5.3 Membership of Public Bodies

There was strong disagreement with the appointment by Government of Sinn Fein Councillors to public Boards. Although I explained that the Government had no discretion on the matter because of the statutory provisions covering such appointments, there is resentment that, "Sinn Fein Councillors have a hand in educating those who have been orphaned by the IRA", and "Sinn Fein Councillors have responsibility through the Health Boards for treating those who have been severely wounded by the IRA - at the expense of others in the community". Representations were made to me that Government must be master in its own house when appointments are made by Ministers.

There is concern in Unionist controlled Councils which do not have Sinn Fein members that their representatives have to meet with them on other organisations such as the Housing Council, Group Committees for Public Health and Building Control, or the Ulster Tourist Development Association. These are bodies which do not involve Ministerial appointments, but they are an integral part of the Local Government system and clearly Sinn Fein membership on such bodies helps "fuel the fire" of Unionist resentment.

5.4 Duplicity

Without exception, the Unionist deputations, were critical of what they saw as the "duplicity" of Ministers refusing to meet Sinn Fein but expecting local Councillors to do so. I tried to explain the basis of present policy but it is their contention that they should be no different from Government Ministers.

When I reminded Unionist Councillors that they had stood for election knowing full well that Sinn Fein were also standing, they replied to me that their electoral platform included proscription. They were highly critical of Government for not having taken action before the Local Government elections in May. The Government, in their view, should have been aware of the electoral strength of Sinn Fein and should have introduced appropriate measures in advance of the election.

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5.5 Political Attitudes

There is concern, particularly among the more moderate Unionist politicians that the presence of Sinn Fein is bringing increased polarisation to the two communities. It was said to me that unless Government take action against Sinn Fein, then the remaining Unionist moderates will be squeezed by the next Local Government election and may be replaced by a harder line Unionist caucus. There is also worry that Sinn Fein is forcing on the SDLP an unwelcomed accommodation to ensure Nationalist control of a number of Councils. It was alleged to me (not by the SDLP) that previous good working relationships with SDLP Councillors in some areas had now ceased and that these SDLP Councillors were not now prepared to oppose Sinn Fein. (On the other hand, these SDLP Councillors would no doubt argue that it has been the actions of Unionist Councillors which have resulted in this increased polarisation.)

There is however a difference of view amongst Unionist Councillors about Sinn Fein/SDLP controlled Councils. Some wish to withdraw. Others, particularly West of the Bann see it important to stay and oppose Sinn Fein so as to deny them a free hand.

5.6 The Future of Local Government

It was expressed to me on a number of occasions that the presence of Sinn Fein is the biggest threat to the future of Local Government since its inception in 1973. A number of deputations pointed out that Local Government has been remarkably resilient, throughout the UWC strike, the hunger strike and the various constitutional initiatives. Unless some change is made to the present position by Government, they foresaw a continuing crisis in Local Government.

5.7 SDLP Concerns

The two SDLP deputations, not unexpectedly, had different worries. They complained about the lack of Government action to secure regular meetings of Councils, the use of public funds for court cases (Craigavon), the continued discrimination by Unionist Councils in respect of chairmanships, membership of other public bodies, and

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they wanted us to strengthen certain provisions in Local Government legislation. A number of these matters were also raised by the Alliance party. The SDLP were strongly of the view that Government should not now be trying to find ways of preventing Sinn Fein from participating the Council Chamber, having "actively encouraged Sinn Fein to participate in the ballot box". They made very clear that they would be opposed to any change in the present electoral rules.

6. SOLUTIONS PROPOSED BY THE DEPUTATIONS

6.1 Proscription

There was a demand from a large number of the Unionist deputations for the immediate proscription of Sinn Fein. Where such suggestions were made I took some time to discuss the principles involved and the practical application of such a solution. Interestingly DUP representatives such as Peter Robinson and Ivan Foster accepted the strength of these arguments and indicated that for the present, they would not pursue proscriptions strongly, provided Government took other appropriate measures in time for the next AGM of Councils in the Spring of 1986.

6.2 Oath of Allegiance

Many of the Unionist deputations proposed a return to the original wording of the declaration to be signed by Councillors under the provisions of the Local Government Act (NI) 1972 which included the words "and that I will render true and faithful allegiance and service to Her Majesty Queen Elizabeth II, her heirs and successors according to law and to her Government of Northern Ireland". They argued that if this Declaration (which had been amended in April 1973) had still been in force, Sinn Fein could not have signed it and that it should now be reintroduced. In discussing this proposal with some of the moderate Unionist deputations, they accepted that such a proposal would cause major difficulties for the SDLP and they agreed it was important, that whatever action we decided to take, the SDLP should remain in Local Government.

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6.3 Declaration of Non-Violence

As the talks proceeded this option became the Unionist favourite. They argued that it was not unreasonable for elected representatives to declare that they would not support the activities of a proscribed organisation. There were differences of approach as to when in the electoral process such a Declaration should be signed. Some argued it should be signed at candidacy. Others that it should be signed following election but before taking a seat. There were a number of suggestions that the Declaration should be introduced for both Chairmen/Vice-Chairmen and all other Councillors at the next Annual General Meetings of District Councils in June 1986. This was proposed as an interim measure to depose Sinn Fein Councillors before the next elections. There was a difference of opinion within the Unionists about the timing of the introduction of a Declaration. Some of the Councils thought that notice of intention to change the existing legislation in time for the next Local Government election would be sufficient. Others particularly the DUP, indicated that this would not go far enough and some action must be taken to catch members of present Councils. There was recognition by all, including the DUP, that any Declaration had to trap extremists on both sides. The SDLP - particularly the major figures like Mr Mallon and Mr McGrady - were strongly against the introduction of such a Declaration. Mr Mallon saw this as "contrived democracy" which he repeated at the SDLP conference. He said any Declaration would be unworkable.

6.4 Extended Disqualification

It was suggested that the present criterion for disqualification, namely that a person cannot be elected if he has within 5 years preceding the day of his election been convicted by a Court for a period of not less than 3 months, was insufficient and that this should be extended to catch those convicted of terrorist offences in Northern Ireland since the beginning of the civil disturbances. It was argued that this would remove a number of previously convicted terrorists from Councils, although it was acknowledged that it would not be a solution in itself.

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It was suggested that if a Councillor was found guilty by the Courts of breaching any Declaration or Oath, this should carry with it automatic disqualification from subsequent elections.

6.5 Changes in Law

Suggestions were made by Alliance, Unionists and SDLP deputations for a strengthening or replacement of the Incitement to Hatred Act since it had proved almost useless in the past. It was suggested that the law on sedition should be strengthened. It was argued that strengthening the legislation could both temper public statements made by Sinn Fein and other extremists and provide the means of removing them from public office.

6.6 Local Government Legislation

It was emphasised on several occasions that the Local Government legislation should be altered. Some SDLP proposals included the replacement of a number of existing Councils by Commissions, control over the use of delegated powers to Committees and legislation to prevent discrimination and ensure a fair allocation of responsibilities within Councils. On the other hand, many Unionists wanted more powers to delegate to Committees and to control the activities of individual Councillors.

6.7 Do Nothing

This was not a course of action recommended by any deputation. Even the SDLP, who expressed strong disapproval of a number of the options requested action to strengthen certain sections of Local Government legislation.

7. CONSIDERATION AND ANALYSIS

7.1 My overriding conclusion from this lengthy series of meetings is that there is a deep, serious, and understandable demand right across the Province by both Unionist and Alliance Councillors and their constituents that something must be done about the presence of Sinn Fein in District Councils. I was impressed by the Councillors reflecting the position that they had to live with. I would have

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expected that they would have been very strong in their views and in their demands for action but I could not fail to be impressed by their very real feeling of revulsion and alarm. Any democrat would express the same feelings. The major issue is the relationship between Sinn Fein and the IRA which privately we acknowledge but which publicly we are forced to deny. I do not accept that ordinary local Councillors should have to live with the contradiction of the armalite and the ballot box. Therefore I am convinced that we must take action. Doing nothing is not a political option if we want responsible people to participate in Local Government.

There is the added complication for Government that Sinn Fein members on Councils will in future create major security problems for Ministers wishing to attend any Council function, whether formal or social.

- 7.2 By initiating these discussions we have inevitably generated a expectation that because Government recognises the difficulties, some action will be taken. The very fact that you have asked me to discuss in detail various proposals means that our position has moved towards taking action.
- 7.3 I myself am convinced that it is right, in itself, for the sake of Local Government democracy, to act. I find it almost impossible to defend a situation where those who would seek to overthrow the State by violent means are given by the Government, an uninhibited public platform from which to expound their views by day and by giving them information about buildings, people and events, could assist them to shoot their fellow countrymen by night.
- 7.4 Two basic questions then arise in this context, ie:-
- (a) What form of action is appropriate, practicable and enforceable?
 - (b) What is the timescale of taking action?
- 7.5 The principles and practicalities of the various options have already been considered in detail in Mr Bloomfield's earlier papers

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difficulty but 15 "Saul-like" conversions strains my credibility too far. The present criteria is that no-one who has been convicted within the 5 years immediately preceding the day of election is eligible to be elected or be a Councillor. I realise that extending this period by a number of years would not catch all the existing Councillors. This in itself would not be a solution to the whole problem but it would be a step worth taking in conjunction with other measures. It would require primary legislation by Order in Council and, in my view, could be justified to the House.

(b) Strengthening the Incitement to Hatred Legislation

You have received separate advice about proposals to strengthen and amend this legislation and I understand this is still under consideration. I see merit in taking such a course of action as I understand that the present law has only been used successfully in a very small number of cases. Ineffective legislation is difficult enough for Government to defend but the problem is even more acute in Northern Ireland where Incitement to Hatred Legislation is both necessary and relevant and now requires urgent amendment. Amendments to the Act were advocated in the talks as a way of taking action against extremists on both sides.

(c) Declaration of Non-Support for Proscribed Organisations

This option was favoured by Unionist and Alliance Councillors and should form the core of our proposals. It catches extremists by taking action to prevent abuse of the democratic process from whatever source. I believe that the introduction of an appropriate Declaration is both justifiable and sensible. I am also of the view that such a Declaration should only take effect following the introduction of legislation and apply to candidates standing for by-elections and to the next round of Local Government elections in May 1989. I do not believe that it would be right to introduce any measure which would be seen to have a retrospective effect by altering the ground rules on which existing Councillors stood. I realise that there are practical difficulties of

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and in our previous discussions. Following my series of meetings, I have come to the following conclusions:-

NOT RECOMMENDED

(a) Do Nothing.

For reasons I have given, this is the least attractive alternative.

(b) Proscription

Unilateral proscription in Northern Ireland, would in current circumstances be neither helpful nor appropriate.

It would prove hard to enforce, would play into the hands of Sinn Fein, and would be difficult to sell Internationally. It would conflict with the Government's political objective of reducing the alienation of the Nationalist community.

The acceptance of these difficulties by the more hardline Unionist leaders was, in my view, one of the major successes of the talks - but it is important to recognise that their acceptance of these difficulties was conditional on the Government doing something quickly.

(c) Oath of Allegiance

The reintroduction of an Oath of Allegiance would create insuperable problems for the SDLP and other constitutional Nationalist parties. In my judgement, this is not a reasonable solution.

7.6 MEASURES RECOMMENDED

(a) Extending the criteria for disqualification

I am persuaded that it is strange indeed to have at least 15 Sinn Fein Councillors serving on Councils who have served terms of imprisonment for serious terrorist offences since 1969. That one may have seen the light on his road to a seat on the Derry Council I might accept, though with some

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enforcement in introducing such a measure. However, very few of those we wish to catch would retain political credibility if they signed a Declaration. I also believe it is preferable to have some mechanism to act as a long stop which, although in practice may not prove to be as effective as we would wish, is better than implementing a Declaration without any legal sanction.

(d) Changing Local Government Legislation

I am persuaded that there is a need to respond to proposals made by SDLP and Alliance deputations particularly about the nomination by District Councils of representatives to other public bodies. In the talks, I raised this with several DUP deputations who - however unwittingly - agreed that there should be recognition of the electoral strength of the DUP when it came to representation on other public bodies. I have had some preliminary work carried out within the Department and am satisfied that we could produce a system, similar to that recently introduced in the Republic of Ireland, which would ensure that nominations from District Councils would be in proportion to the electoral strength of local political groupings. The result of such a system would be to increase Unionist representation West of the Bann and SDLP representation East of the Bann.

I believe that we can and should deal not only with Sinn Fein but also with the other problem of proportionality. This measure should be introduced in conjunction with my other proposals.

8. CONCLUSIONS AND RECOMMENDATIONS

8.1 In summary therefore, my main conclusions are:-

- (a) There is genuine and understandable concern throughout Northern Ireland amongst the Unionist community about the presence of Sinn Fein on Councils and public bodies.

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- (b) There is an expectation that Government accepts such concerns and will take action.
- (c) Action is justifiable.
- (d) Action should not be retrospective but should apply in all elections which follow the introduction of the new measures.

8.2 I do not recommend:-

- (a) doing nothing;
- (b) proscription within Northern Ireland alone which would not be appropriate; nor
- (c) the reintroduction of an Oath of Allegiance.

8.3 My main recommendations which should be taken together are:-

- (a) Extension of the period for disqualification.
- (b) The strengthening of the Incitement to Hatred Legislation.
- (c) The introduction of a Declaration of Non-Support for Proscribed Organisations.
- (d) Amending Local Government legislation to ensure that nomination to public bodies from District Councils is in proportion to political representation on the Council.

8.4 Although the SDLP will oppose these moves, they are unlikely to abstain from local elections. I believe that without them, the Unionists will have justifiable cause to claim:-

that local democracy is being used for the furtherance of violent revolution;

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that in no other part of the Kingdom would the Government countenance terrorist sympathisers or ex-terrorists standing for election; and

that the Unionist community are right to continue their policy of objection and abstention.

I believe that they will continue to have a very large majority of their constituents behind them until we decide to act.

RICHARD NEEDHAM

30th December 1985

cc PS/SOS (B&L)
PS/Dr Boyson (B&L)
PS/Mr Scott (B&L)
PS/Lord Lyell (B&L)
PS/PUS
PS/Mr Bloomfield
Mr Brennan
Mr Stephens
NI Perm Secs
Mr R Erskine
Mr M Reid
Mr Chesterton
Mr Merifield
Mr Gilliland
Mr Spence
Mr Innes
Mr M Elliott
Miss F Elliott
Mr J McConnell
Dr B Mawhinney
Mr Ehrman

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APPENDIX

Those represented on deputations

A. 7 MPs - C Forsythe, R Beggs, J Nicholson, C Walker, P Robinson, W McCrea, K Maginnis

B. 14 Members of Assembly (not MPs) -

J Cushnahan, J Speers, J Allister, I Foster, W Bleakes, S Close, G Mawhinney, G Campbell, S Gibson, S Mallon, E McGrady, J Wells, D Dunlop, J Carson

C. 34 Council Political Groupings -

Antrim UUP, Lisburn Alliance, Larne UUP, Larne DUP, Armagh UUP, Armagh DUP, Lisburn UUP, Strabane DUP, Fermanagh DUP, Magherafelt DUP, Dungannon UUP, Newtownabbey UUP, Newtownabbey DUP, Down SDLP, Armagh SDLP, Cookstown SDLP, Antrim SDLP, Derry DUP, Ards UUP, Ards DUP, North Down UUP, North Down DUP, Armagh DUP, Limavady SDLP, Craigavon SDLP, Fermanagh UUP, Carrickfergus UUP, Carrickfergus DUP, Limavady UUP, Limavady DUP, Banbridge UUP, Banbridge DUP, Belfast UUP, North Down Alliance and several Independent Unionists.

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