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**Title:** Letter and note from HJ McCann, Secretary of the Department of Foreign Affairs, to D Ó Suilleabháin, Secretary of the Department of the Taoiseach, regarding the Diplock report on legal procedures to deal with terrorist activities in Northern Ireland.

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ROINN GNÓTHAÍ EACHTRACHA  
DEPARTMENT OF FOREIGN AFFAIRS

*Mr Mac Stiofáin*  
*19/12*

BÁILE ÁTHA CLIATH 2  
DUBLIN 2

IMMEDIATE

*Rec'd 4 pm  
19/12*

*Taoiseach should refer  
to Attorney General during  
the course of the Government  
meeting*  
*19/12*

Dear Ó Suilleabháin

I attach a note of one aspect of a conversation I had with the British Ambassador this afternoon dealing with the Diplock Report.

While the Ambassador proposes to deliver to me tomorrow morning for the Taoiseach a copy of the Report and accompanying document, I think that the Taoiseach may wish to know immediately what is in the attached minute.

While the point at 2. of the minute could be explained away on the basis that the police in the North cannot be trusted as impartial, points 2. and 3. taken together could be regarded as criticism of our recent legislation and may be relevant in the Strasbourg context.

The Minister for Justice and the Attorney General may wish to be aware of the matter immediately in case they should consider it desirable or necessary to make a comment when the Report is published.

Yours sincerely

D. Ó Suilleabháin, Uas.  
Rúnaí  
Roinn an Taoisigh

CONFIDENTIAL

In the course of a call on me this afternoon about a number of matters the British Ambassador told me that the Diplock Report would be published tomorrow afternoon and that it was intended to give the Taoiseach an advance courtesy copy tomorrow morning together with a note inviting attention to three points which might be of special interest to us. The Ambassador told me that, owing to the delay in surface mail, he has not yet received a copy of the Report but, contrary to his instructions, let me have a passing glance at the piece of paper he would be delivering tomorrow with the Report. The following three points were referred to therein:-

1. The Report speaks of the desirability of improvement of criminal procedures under the Detention of Terrorists arrangements but emphasises that they must have regard to Article 6 of the European Convention on Human Rights.
2. The Report commented that while it may be possible elsewhere to accept a statement of the belief of a police officer as evidence of an offence this could not be accepted in the special circumstances in Northern Ireland.
3. The Report could not accept failure to deny *allegations* membership of an unlawful organisation as evidence of an offence.

The piece of paper goes on to suggest that the foregoing might be interpreted as a criticism of our Offences against the State (Amendment) Act, 1972, but proceeds to ensure us that this is not so.

*APW*

19 Nollaig 1972