

Debate on the Hennessy Report
on the escape from the
Maze Prison in Northern Ireland.

Thursday, 9th February 1984

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SECTION IINTRODUCTION

The Full Story. The Hennessy Report describes in detail and with great candour the very grave flaws in the management and day-to-day administration of the Maze Prison, which enabled 38 imprisoned terrorists to escape on 25th September last year. The facts are laid out in full, except for those which have to remain confidential for security reasons. The Report makes clear the great lengths to which Sir James Hennessy and his team went (with the full co-operation of the Government) to establish the exact truth about this incident which Mr Prior has described as 'the blackest day in the troubled history of the Northern Ireland prison service'. There has, quite patently, been no cover-up.

Incompetence and Mismanagement. The Report sets out the blunders committed by certain prison officers, and shows how a number of lax security procedures which had been allowed to persist unchecked contributed to the escape. For example:

- there were no sniffer dogs to detect explosives;
- professional visitors such as lawyers were not always subject to searches;
- fresh vegetables were delivered without prior inspection straight from vans to the prison kitchens;
- five pistols were smuggled in;
- two senior members of the IRA deeply implicated in planning the escape had been given key jobs as prison orderlies, providing them with considerable freedom of movement.

The Report heavily censured the Governor of the Maze (who resigned as soon as the Report was published) and some of his senior colleagues, including the prison's Principal Officer for Security with whom day-to-day responsibility for security lay. Commenting on the role of the latter, the Report states: 'we found that the performance of the Security P.O. fell markedly below an acceptable standard. The Security Information Centre was poorly organised and did not record, analyse or process information as it should have done. Nor did the Security P.O. have a proper grasp of security procedures... He had taken no interest in some aspects of the establishment with a special security significance.. In short, the Security Department (in the prison) was not up to the task it was required to perform and its failures allowed the poor security environment to develop unchecked' (Para 8.23).

The Report also laid some criticisms at the door of the Prison Department of the Northern Ireland Office. It concluded that there had been 'administrative deficiencies' (Para 9.07) and that the Division's Director of Operations 'must be held responsible for some of the shortcomings at the Maze' (Para 10.16).

The Unique Situation at the Maze. The Report fully acknowledges the extraordinary difficulties and dangers that those responsible for running the Maze constantly face. It describes the Maze as:

'A prison without parallel in the United Kingdom, unique in size and in the continuity and tenacity of its protests and disturbances. In no other prison that we have seen have the problems faced by the authorities been so great. When terrorists are few in number they can be dispersed into small, secure pockets and absorbed into the general prison population. But when they are many the best solution is usually to be found in removing them from the area of conflict and incarcerating them in a fortress prison surrounded by armed guards. In Northern Ireland neither course is feasible.

'The Prison is unique, too, in its population, which is totally dissimilar to the usual criminal recidivist population to be found in the nearest equivalent establishment in England and Wales. It consists almost entirely of prisoners convicted of offences connected with terrorist activities, united in their determination to be treated as political prisoners, resisting prison discipline even if it means starving themselves to death, and retaining their para-military structure and allegiances even when inside' (Paras 10.01 and 10.02).

The Achievements of the Northern Ireland Prison Service. While severely criticising the errors and shortcomings of some prison staff, and the totally inadequate security procedures which had been allowed to continue, the Report also draws attention to the dedicated and conscientious work carried out by many members of the Northern Ireland Prison Service.

Of the Governor, the Report writes:

'His public service deserves full acknowledgement. At the Maze much of his time has been taken up with the various crises that have struck the prison from time to time. He has shown sensitivity and understanding in his handling of them. He is conscientious and hard-working, and we believe that he did his best. His achievements should not be underestimated' (Para 10.13).

As regards the general performance of the prison staff, the Report states:

'Effective security depends on the constant alertness of staff and the consistent application of routine procedures... Staff who are punctilious in their work and use their intuition and initiative help security prosper; staff who are careless and unconcerned cause the breaches in security which lead to failure.

'At the Maze we met staff in all grades and branches who fell into the first of these categories: conscientious men, professional in their outlook and not prepared to give less than their best in their every day work. The Northern Ireland Prison Service is fortunate to number such men in its ranks' (Paras 8.01 and 8.02).

The Report also lays stress upon the lack of experience of many prison officers who form part of a Service which has increased tenfold in ten years;

'The Maze staff numbers about 1,000 of whom 929 were in the prison officer grades in September 1983. Only 4% of the latter had ten or more years service, while almost 50% had served for less than 4 years. The high proportion of relatively inexperienced staff

is a characteristic of the Northern Ireland Prison Service and results from the rapid increase in the size of the service - from 300 to 3,000 in less than 15 years' (Para 1.13).

The Basic Soundness of the Maze Regime. It is quite clear from the Report that the regime at the Maze in no way impaired the security of the prison. If that regime had been properly administered, the mass escape could not have occurred. Sir James Hennessy examined with particular care the changes in the regime which have been made in recent years with a view to establishing whether they had 'fundamentally weakened security in the prison' (Para 9.20). He concluded that 'none of the changes which were introduced need have affected the security of the prison in any significant way or in a way which made the escape on 25th September easier to accomplish' (Para 9.26).

Prompt Action by the Government. The report contains 73 recommendations designed to rectify all the very serious problems at the Maze which Sir James Hennessy has identified. The changes proposed in the report will lead to:

- enhanced physical security within the prison (i.e. making each communications room in the various H-blocks totally secure)
- improved security procedures (i.e. random strip-searching of prisoners; thorough searching of all professional visitors; and random searching of prison staff)
- enhanced training for prison staff
- detailed investigations to establish clearly the case for disciplinary action against certain members of the prison staff

The Government has accepted both the conclusions reached by Sir James Hennessy and all the recommendations he made. Mr Prior told the House of Commons on 26th January:

'The most urgent measures were implemented at once ... 21 recommendations have already been put into effect. 38 will be carried out as soon as possible. And the remaining 14, as the report proposes, will be the subject of urgent review'.

The Effects of the Government's Swift Action. Mr Prior also told the House on 26th January how the main changes would dramatically improve security at the Maze. He said:

'As a result of the action taken, the control room in each H-block has been made secure against armed attack; an electric lock has been installed at the main gate; a control point secure from armed attack is in place and other security improvements have been made. Plans for a new main gate complex with a remote control locking system are being drawn up. A study of closed-circuit television linkage between each H-block and the main control room has been commissioned. Changes in the security procedures, most notably searching, have already been implemented and action will follow in other areas.'

As regards the Prison Department of the Northern Ireland Office (some of whose operations have been criticised in the report), Mr Prior said:

'The report is critical of the oversight of security arrangements at the prison by the Prison Department of the Northern Ireland Office and recommends the strengthening of its staffing. This is being done. A team has also been set up dedicated solely to the urgent implementation of each of the recommendations. I have instructed them to report to me on the progress being made.'

SECTION II

QUESTIONS AND ANSWERS ON THE HENNESSY REPORT

1. Q: What were the main failings identified by Sir James Hennessy which led to the escape?

A: As the Secretary of State told the House of Commons on January 26: "The Report points to three main areas where security was inadequate. First, physical weaknesses, in particular in the communications rooms in the H Blocks and at the main gate. Second, poor security procedures, in particular inadequate searching, unsatisfactory control of visits, and flaws in the control of prisoner movements, in the selection of orderlies, and in the arrangements for responding to alarms. And third, failures by individuals who were negligent or who did not carry out their duties."

Indeed, it is clear from the Report that if all the existing rules and procedures relating to the running of the prison and the conduct of the staff had been properly observed the escape could not have taken place .

2. Q: Did policy changes made in recent years, especially those made after the hunger strike contribute to the escape?

A: Sir James Hennessy's team considered this matter in detail and concluded that 'none of the changes which were introduced need have affected the security of the prison in any significant way or in a way which made the escape of 25 September easier to accomplish.' (Para 9.26). The questions of requiring prisoners to work and allowing them to wear civilian clothes are considered below. The privilege of extra parcels and visitors for prisoners should not, in the view of Sir James Hennessy, have strained the security capability in the prison, and inter-wing association had been discontinued before the escape after a number of cases of assault and intimidation.

3. Q:: Were the Maze Prison and the Northern Ireland Prison Service adequately resourced?

A: The Report examined this question and concluded that in the areas of finance and personnel the Prison Service had been reasonably well treated. In the two year period prior to the escape the prison population did not expand but resources increased from £61.9 million to £70.9 million, and staff increased by 13%.

4. Q: Did the policy decision to allow prisoners to wear their own clothes contribute to the escape?

A: No. During the escape clothing was not a relevant consideration until prisoners had breached the main gate because up to that point the only visible escapers were dressed in prison officers' uniforms. It was also not the difficulty of identifying prisoners which weighed most heavily with the sentry in the watch-tower in deciding whether to open fire. The Report concludes: 'while the decision to allow prisoners to wear civilian clothes might have increased the risk to security, it did not, in our view, amount to a substantial one and did not in any event contribute significantly, if at all, to the success of the escape.'

5. Q: Didn't the Government's 'concessions' in the aftermath of the hunger strike make prison officers believe that they should adopt a laxer approach and this contributed to the poor morale on the part of the staff?

A: The Government through several statements of policy made it clear that the changes made to prison life in relation to matters like prisoners' clothing and visitors were not 'concessions' to the central demands of the Republican prisoners for 'political status'. The Report affirms that in the view of the Hennessy team those prison officers who claimed that the policy changes gave them reason to believe that they should be less strict and diligent had no legitimate basis for drawing that conclusion (para 9.27 and 9.28). Indeed the Report in its conclusions notes: 'the determination of the government not to give into the terrorists' political demands; the determination to treat terrorists like all other prisoners - with all that implies in terms of regime and privileges'; while striking a balance with 'the determination to avoid, in the wider interests of peace, those measures which, although beneficial in security terms, might provoke further destruction, further protest on further conflict and loss of life' (para 10.04).

The Government had carefully tried to explain their intentions in making changes to aspects of prison life and cannot be held responsible if some individuals continued to misunderstand the policy objectives being pursued. Another question relevant to morale, however, was the Prison Officers' demands for more money on top of their £13,000 annual average salary. Indeed the POA even went so far, on 29th August 1983, as to 'abandon the prison in support of a claim to a travelling time allowance leaving it to the police to man the prison' (para 10.06). However, this dissatisfaction on the part of the POA does not mean that it would have automatically been right to grant the Prison Officers' demands in this respect.

However, it is also legitimate to question whether morale was as low as has subsequently been made out. Certainly, the very gallant behaviour of a large number of prison officers in the main guard block in trying to prevent the escape to the extent that Officer Ferris was murdered and five of his colleagues seriously wounded, does not suggest complete demoralisation or a lack of commitment to their jobs on the part of a substantial number of prison officers.

6. Q: The Prison Governors' Association argue that there was frequent political interference in the running of the prisons and that a directive to give work to all Republican prisoners, regardless of how dangerous they were contributed to the escape. How do Ministers respond to this?

A: The Governors' Association's recent statement makes clear that the Governors are not seeking ministerial, or other, resignations. Ministers have, of course, been closely involved at various times with aspects of the prison regime such as those matters under dispute at the time of the hunger strike. However, the Hennessy Report endorses this involvement: 'We believe that the balance of advantage lay in the government doing what it could to reduce conflict in the prisons - and thus the difficulties that staff were experiencing in controlling the prisons' (para 9.17).

On the specific point made by the Governors that the escape became possible through their having to find work for all formerly protesting Republican prisoners like Brendan McFarlane this is dealt with by the Report in paragraph 3.11. In commenting on the misjudgement in allowing dangerous prisoners like McFarlane to work as orderlies it says: 'The Governor had been instructed at the end of the most recent hunger strike to provide employment for all prisoners ending their protest. Because the capacity of the workshops and training courses was insufficient to provide employment for all, the Governor felt there was no alternative but to create additional orderly posts in the H Blocks. It would, in our view, have been prudent to have sought the advice of Prison Department, who were unaware of the difficulties, before doing so.' The Government policy direction had been explicit in instructing the Governor to allocate ex-protesters to prison industries and the onus was on the Governor to find ways of implementing the direction or to draw the Department's attention to the difficulties which he faced.

7. Q: What are the particular difficulties of running the Maze Prison and the other prisons in Northern Ireland?

A: First, although the Report singles out negligence and carelessness on the part of prison staff, Mr Prior made a particular point of praising the work of the majority of prison officers in Northern Ireland who have an extremely difficult job to do. Twenty-two members of the Prison Service have lost their lives through terrorist action - including a Deputy Governor of the Maze. As the Hennessy Report notes: H M Prison Maze is; 'a prison without parallel in the United Kingdom, unique in size, and in the continuity and tenacity of its protests and disturbances. In no other prison that we have seen have the problems faced by the authorities been so great ... Nowhere else in the United Kingdom have there been such prolonged and widescale protests of so horrendous a nature". (Paras 10.01 and .03)

In England and Wales there are 250 high-risk (Category A) prisoners dispersed around the prison system. They represent a 1% of the total population. In Northern Ireland out of 2,500 prisoners about 1,000 (40%) would, if they were in England, be classed as high-risk Category A.

The Northern Ireland Prison Service has also had to undergo an unprecedented expansion. In 1969 there were 3 prisons holding about 600 inmates most of whom were petty criminals. Fifteen years later with the number of prisoners having more than quadrupled, 75% of the prison population have been convicted of offences connected with terrorism. This necessitated an almost ten fold increase in the size of the Prison Service at high speed and H M Chief Inspector of Prisons comments in his Report: 'it is clear that there are men in the Northern Ireland Prison Service now who lack the abilities required of a prison officer and the leadership qualities necessary for the more senior grade appointments - as well as men who are over-concerned with high earnings. While such men may not be typical, they are nevertheless a factor of which the Prison Service must take account.' (para 8.09)

8. Q: What was done following the escape to tighten security at the Maze Prison?

A: Action was taken immediately to tighten various security procedures, including searching. Among the other changes made are: the control room in each H Block has been made secure against attack; an electric lock has been installed at the main gate and a control point secure from armed attack is in place; the movement of orderlies has been restricted; professional visitors are subject to a thorough search; a Quick Reaction Force has been set up and there have been important structural improvements made to the armoury.

9. Q: Does the Government accept Sir James Hennessy's recommendations for the future security of the prison?

A: Mr Prior reported to the House of Commons in the following terms on 26 January: 'The Report makes 73 recommendations covering: enhanced physical security measures; improved security procedures; enhanced training and investigations with a view to possible disciplinary action ... I accept the analysis and all of the recommendations. The most urgent measures were implemented at once - 21 recommendations have already been put into effect. 38 will be carried out as soon as possible. And the remaining 14, as the Report proposes, will be the subject of urgent review'. As matters of priority: plans for a new main gate complex will be drawn up; a study of closed circuit television linkage between H Blocks and the main control room has been commissioned; and a special team has been set up to supervise the implementation of the Report's recommendations and with a remit to report progress to the Secretary of State.

10. Q: To what extent did flaws in the Northern Ireland Office Prison Department contribute to the escape?

A: As the Secretary of State told the House: 'the Report is critical of the oversight of security arrangements at the prison by the Prison Department of the NIO and recommends the strengthening of its staffing.' The Report, while praising his abilities, criticises the Director of Operations of the Security and Operations Division; suggests that a system of establishment inspections should be instituted and is critical of the Department for not processing more expeditiously an application for modifications to the main gate. However, the Under-Secretary responsible for the Prisons Department is cleared of any blame for the escape. The staffing of the Department is to be strengthened so that it is better able to handle the extraordinary circumstances which arise from time to time in Northern Ireland prisons (eg the 'blanket' and 'dirty' protests, the hunger strike and the industrial action taken by the Prison Officers' Association). The Hennessy Report notes that despite the difficulties in the Prisons Department: 'The Governor told us that he never found himself without advice on any urgent operational matters.' (para 9.03)

Some have suggested that the N10 Prisons Department should have accepted a larger slice of the blame for the escape, but their responsibility was much less direct for the normal administration of the prison and operated at one remove. The Report shows that if the existing rules and procedures in the prison had been followed properly then it would not have been possible for the prisoners to have escaped. That is why responsibility must rest primarily with those in the Prison who failed to follow these directions.

11. Q: Why has the Governor resigned and what disciplinary action is intended to be taken against other prison staff found to have been negligent?

A: The Governor resigned after 34 years distinguished service because the Report concluded that negligence and carelessness were: 'so widespread, we must conclude that management must bear part of the responsibility for allowing such practices to continue unchecked. It is, of course, the Governor who carries the ultimate responsibility for the state of the prison and the general malaise that was apparent ... The extent of the deficiencies in management and in the prison's physical defences amounted to a major failure in security for which the Governor must be held accountable. He should have been aware of the deficiencies and should have taken action to remedy them. There were, of course, some areas, particularly those areas associated with the construction and design of the prison, that were beyond his authority and resources to correct, but he neither reported them nor sought authority to take the necessary remedial action. We have no doubt - and the Governor confirmed this - that had he done so, his request would have been sympathetically received and carefully considered.' (para 10.12)

The Assistant Governor responsible for security and the Security Principal Officer have both been moved, and disciplinary action will be taken where appropriate against officers found to have been negligent at the time of the escape. However, each of these cases will have to be considered afresh by a team under a Governor from Headquarters, the testimony for the Hennessy Report having been collected on the basis that it would not be used in disciplinary proceedings. It is disappointing that the Prison Officers Association has refused to allow its members to co-operate with this investigation team.

General Questions

12. Q: Did the escape appreciably affect the general security situation in Northern Ireland?

A: It is impossible to give a categorical answer to this question. The successful escape of 19 convicted terrorists was, in the Secretary of State's words 'a setback to law enforcement in Northern Ireland, at a time when terrorist organisations have been under increasing pressure' (24 October, Hansard, col 20). The chief impact was, however, probably on the Provisional IRA's morale rather than on their immediate operational capability. Despite the setback of the Maze escape, however, the level of violence in 1983 was at its lowest, with the exception of 1980, since 1971. There were 77 deaths resulting from terrorism in 1983, 20 fewer than the previous two years and comparing with 467 in 1972 and 297 in 1976.

SECTION III

MINISTERIAL RESPONSIBILITY

The Secretary of State, Mr James Prior told the House on 24th October:

'If I had felt that ministerial responsibility was such that in this case I should have resigned, I certainly should have done so. It would be a matter for resignation if the Report of the Hennessy Inquiry showed that what happened was the result of some act of policy that was my responsibility, or that I failed to implement something that I had been asked to implement, or should have implemented. In that case, I should resign. The IRA may have had something of a success to relate about the escape but I would be as nothing compared with the success which it would have to relate if it forced the resignation of the Secretary of State under such circumstances' (Hansard, Col 23-4).

Mr Prior was not seeking to limit ministerial responsibility to matters of policy. Although the conventions surrounding individual ministerial responsibility have been somewhat blurred by the convention surrounding collective responsibility it is quite clear that Ministers 'are responsible' to the House for all the omissions and commissions of their departments. The issue in doubt is the meaning of the word 'responsible' in this context.

Although in the case of the Crichel Down affair (1954) Sir Thomas Dugdale accepted responsibility for actions by his officials of which he had no knowledge and would have profoundly disapproved, and resigned, this is adjudged by the majority of constitutionalists to have been an exceptional act. Indeed S A de Smith comments: 'Sir Thomas Dugdale's personal decision to resign because of the exposure of maladministration by senior officials (of which he had no knowledge) in the over-celebrated Crichel Down affair was not demanded by convention. Other Ministers have not sought to emulate him and it would be unrealistic to do so, particularly if wide decision-making powers had been delegated to the officials concerned' (4th Edition 'Constitutional and Administrative Law').

A case which is adjudged to be more in the mainstream of the conventions surrounding the meaning of ministerial responsibility, and whether it should lead to loss of office for failures of administration, is the Ferranti case (1964). In his Report for the year 1962-3 The Comptroller and Auditor-General drew attention to the fact that the amount allowed for direct labour and overheads in a guided missile contract (for the 'Bloodhound') between the Ministry of Aviation and Ferranti Ltd exceeded the actual cost by 70% or £2.7 million even though the figures relating to the actual costs were in the hands of the Ministry's accountants at the time prices were fixed. A committee of investigation was set up under Sir John Lang which produced a Report highly critical of the Department. The Minister of Aviation, Mr Julian Amery (who was not the Minister responsible for placing the contract) took remedial action to ensure that no recurrence could take place and reported to the House in the following terms:

'Sir John shows clearly where our organisation went wrong. He does not show so clearly why it went wrong...I have started a stringent investigation into the question of personal responsibility for all this...and we would not hesitate to take disciplinary action if it were proved to be necessary. I come now to the question of ministerial responsibilities. I think that it would be wholly unsuitable in a matter of this kind

where the taxpayers' interest as has been proved, has been adequately defended, to make any charge against any Minister...I have studied carefully the records of resignations in matters of various kinds over the last 30 years...I freely admit that mistakes have been made by my Department but I am sure that the House will recognise that the task of the Contracts Division is an immensely difficult one'. (Hansard, 30th July 1964).

This approach has also been followed in other celebrated cases such as that of Hola Camp (1959), the Devlin Report on disturbances in Nyasaland (1958), the death of Commander Crabb (1956) and the collapse of Vehicle and General Insurance (1971). Other serious failures involving Government departments which have not, because of a lack of direct ministerial culpability, led to resignations have included the Aberfan disaster, the escape of George Blake, the Crown Agents scandal, the near collapse of the British economy and the resort to the IMF in 1976, the Prime case and the associated laxity found at GCHQ and the cases of maladministration under the last Labour Government involving the illegal collection of higher BBC licence fees, the attempt to prevent Laker's Skytrain from competing freely on the North Atlantic route and the attempt to force Tameside to adopt comprehensive education.

The resignations of Lord Carrington, Mr Humphrey Atkins and Mr Richard Luce after the Argentine invasion of the Falklands was prompted by what they perceived to be failures of policy and, hence, this raises rather different questions from those of the Hennessy Report which clears Ministers of any blame flowing from policy decisions or lack of resources.

Above all the only coherent factor which seems to run through the decisions made by Ministers as to whether or not to remain in office has been the wholly pragmatic one summarised in a standard work on the Constitution by Marshall and Moodie as follows: 'Ministers, it is said, are responsible to Parliament as individuals for the work of their Departments and the sanction for mismanagement is the House's demand for the resignation of the Minister. Yet when resignations do occur, the determining factor is in practice the alienation by a Minister of his Party colleagues rather than the operation of a constitutional principle' (Some Problems of the Constitution, 1971).

In an article published in the journal Public Administration in 1956 Professor S E Finer considered these questions and concluded:

'A convention, in Dicey's sense, is a rule which is not enforced by the Courts. The important word is "rule" ... In its first sense that the Minister alone speaks for his civil servants to the House, the convention of ministerial responsibility has both the proleptic and the compulsive features of a "rule". But in the sense that the Minister may be punished, through loss of office for all the misdeeds and neglects of his civil servants which he cannot prove to have been outside all possibility of his cognisance and control, the proposition does not seem to be a rule at all'.